

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. Senges, Mr. Pannu, Ms. Tulman

Absent: Mr. Cupersmith, Mr. Leoncio

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

RESOLUTIONS FOR APPROVAL

Mr. Cohen motioned to approve the following **RESOLUTION NO. 21-13**; 5 Village Drive, Block 213.16 Lot 10; seconded by Mr. Daddario; none (0) against:

Ayes: Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Daddario, Mr. Pannu, Ms. Tulman, Mr. Senges

Abstentions: None

Nays: None

Mr. Willard motioned to approve the following **RESOLUTION NO. 21-14**; 103 Long Lane, Block 87 Lot 5; seconded by Mr. Cohen; none (0) against:

Ayes: Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Daddario, Mr. Pannu, Ms. Tulman, Mr. Senges

Abstentions: None

Nays: None

Mr. Willard motioned to approve the following **RESOLUTION NO. 21-15**; 59 Dutchtown Road, Block 227 Lot 21; seconded by Mr. Weil; none (0) against:

Ayes: Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Daddario, Mr. Pannu, Ms. Tulman, Mr. Senges

Abstentions: None

Nays: None

MINUTES FOR APPROVAL

Mr. Weil motioned to approve the Minutes from the February 25th meeting; seconded by Mr. Willard; no abstentions; none (0) against.

Ayes: Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Daddario, Mr. Cupersmith, Mr. Senges, Mr. Pannu.

Abstentions: None

Nays: None

NEW BUSINESS

Natasha & Marcos Villa-Gonzalez

201 Cooper Road
Block 230.23, Lot 10

Mr. Platt summarized the application stating the Applicant seeks relief from Section 15.013(A)(1), to allow an in-ground pool and surround to be installed in a side yard where accessory uses and structures are only permitted to be installed in a rear yard; 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. Platt pointed out in the report from CME they noted pool equipment is in the front yard whereas in the application resume issued by the Zoning Officer there is variance need for rear yard coverage. The Board needs to be clear before they begin deliberations.

Mr. Platt asked the Chairman to admit the Applicant to go over the variances to make sure the Board and the Applicant understand what is being requested.

Mr. Platt swore in the Applicants, Natasha and Marcos Villa-Gonzalez.

Mr. Platt asked for Mr. Matlack's thoughts from the submitted CME report to make sure the testimony as directed at the actual variances.

Mr. Matlack stated it looks to him the house faces the driveway and so what the Applicant is calling the backyard is a side yard. The front faces Cooper Road. The pool equipment is on the side, the pool itself is on the back.

Mr. Platt asked if the Applicant is seeking front yard variance. Mr. Matlack confirmed.

Mr. Platt confirmed the need for a fence variance. Mr. Matlack confirmed the same idea, the fence goes two (2) feet forward off the front of the house towards Cooper Road and across to enclose the pool. This is not a very big variance. They need testimony from the Applicant. Possibly, they could come up with a plan to change or eliminate the variance.

Mr. Platt stated that clearly there is no rear yard coverage issue unless Mr. Matlack thinks otherwise.

Mr. Matlack stated he believes this to be true.

Mr. Platt concluded that the variance is not, therefore for a setback but rather for a structure not allowed in the front yard.

Mr. Platt asked Mr. and Mrs. Villa-Gonzalez if they understand the nature of the variances. They both confirmed that they do.

Mr. Platt explained to the Applicants that Voorhees residents are not allowed any part of the fence or any other structures in front yard.

Mr. Platt asked Mr. Matlack to provide measurements as to how much the pool equipment encroaching into the front yard.

Mr. Matlack stated on the plan it is just about five (5) feet or so forward off the house. It is still well behind Cooper Road and they have woods and stream running across, so it is all screened. The fence encroachment is about two (2) feet.

Mr. Platt confirmed with the Chairman they are going to be reviewing the two (2) variances.

Mr. Senges asked about the fence height. He further noted it is a major variance when you put the pool in the front yard and not in rear, variance for the pool equipment in the front yard would be required as well.

Mr. Matlack replied he does not believe the pool being in the side yard requires a variance.

Mr. Senges advised it would be inconsistent with the prior meeting application when the Board requested a variance for the pool being in the side yard. In the Gutterman's application the pool and patio were in the side yard. However, in that case, it was a large back yard but clearly, the Board approached that application as if the pools were not allowed in the side yard.

Mr. Matlack noted the Ordinance does not specifically say accessory uses are not allowed in the side yard.

Mr. Platt requested Mr. Matlack to check the Ordinance. He added he believes Mr. Senges is correct. He confirmed it by referencing the Gutterman Resolution for Application ZC2020-014 Section 150.123(A) (1) (a).

Mr. Platt extended apology to the Applicants for taking their time with the internal issue.

Mr. Matlack stated the code book on Voorhees website does not list the variance about side yard.

Mr. Senges proposed to be safe and consistent, they should request the variance. In this case, since they do not have a big backyard, they can show it makes sense to put it in the side yard.

Mr. Platt clarified for the Applicants that they now have three (3) variances, such as pool equipment in the front yard with 5 feet setback; fence in the front yard encroaching 2 feet; pool being in the side yard.

Mr. Senges requested the Applicant to provide testimony for a "need" as opposed to a "wish" to put the pool where they have it, as well as the fence and the pool equipment.

Ms. Villa-Gonzalez stated they were under impression they needed to move the pool because when they presented their original drawing to the Zoning Officer to show the pool the way they had, it was denied.

The Applicant read the denial letter verbatim as follows:

"Denied for installation of an in-ground pool in side yard per sections: 15013 (A) (1), where accessory buildings and uses may not occupy more than 25% of the rear yard area, and are thereby prohibited from installation in side or front yards, and slightly more than half of the proposed in-ground pool would be in the side yard. The required variance must be obtained from the Zoning Board to enable the issuance of a zoning permit for the proposed location".

Ms. Villa-Gonzalez stated that the engineer moved the pool to the front of the house based on the above cited denial letter.

Mr. Senges commented it sounds like their original drawing was more compatible with the Ordinance. He asked if the Applicants would be willing to revert to the original drawing since it would eliminate the issue with the fence.

Both Applicants confirmed they would be fine with that.

Mr. Platt asked if they would be compliant with moving the fence and equipment out of the front yard to eliminate those two (2) variances. The pool will be relocated further back like in the original drawing.

Mr. Matlack asked if the fence in the revised drawing is in the same location as in the original drawing.

Ms. Villa-Gonzalez confirmed it is, but they can move the fence.

Mr. Matlack stated the way he sees the revised plan, the fence is off the property line, the pool must be 15 feet off that property, if there is 6 feet from the fence to the pool, they would be compliant.

Mr. Senges suggested the Applicants have the final placement of the pool, fence, and pool equipment to be reviewed by the board engineer.

Mr. Platt pointed out it would not be fair to the Applicants to have them pay extra fees for the engineering review; it should have been done by the Zoning Officer. Mr. Platt further noted to the Applicants that this is not their fault and should have been dealt with on the inside. Should they wish to move the pool within 15 feet from the property line, it would be fine. The last issue they need to demonstrate to the Board is the reason why it presents the hardship to have the pool in the rear yard.

Mr. Marcos Villa–Gonzalez explained in relations to configuration of the property, the side yard appears to look like the back yard. And the backyard is typically where the pool should go, it is most logical. Besides tree lines on Cooper Road obscure view from the road. There is a line of trees blocking it from the Victor Blvd.

Ms. Villa–Gonzalez shared with the Board an aerial view of the property configuration. It showed there is another township-owned lot between their property and Victor Blvd. Their property is not really a frontage. She noted the hardship is that there is no sufficient room in the rear yard.

Mr. Platt commented the trees mitigate any visual concerns from the surrounding neighbors. He asked the Applicants whether the fence and pool could be moved, and the pool setback requirements will be observed.

Mr. and Mrs. Villa–Gonzalez replied they would comply with all three requirements.

Mr. Senges addressed the Board for any questions, comments, suggestions.

Seeing none, the Chairman opened the floor to the public.

Seeing no one from the public wishing to speak on behalf of the Application, Mr. Senges brought it back to the Board.

Mr. Platt read amended the Application to allow the pool to be constructed in the side yard due to hardship, whereas the Applicants will relocate the pool equipment from the front yeard, and they will relocate any portion of the fence in the front, and the pool will meet all setback requirements.

Mr. Weil motioned to grant relief from the three (3) variances as outlined by Mr. Platt; seconded by Mr. Willard.

Yay: Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Daddario, Mr. Senges, Mr. Pannu, Ms. Tulman

Nay: none

Abstentions: none

Mr. Platt advised the Applicants that his office will amend and issue the Resolution, the Board will memorialize it in the next meeting, and the Zoning Secretary will publish Notice of Decision. Anyone from the public can appeal it within 45 days of publication of Notice of Decision. It is applicant's prerogative to wait or start the job at their own risk prior to the 45 days expiration period.

The Applicants acknowledged they understand the appeal process and thanked the Board.

Ken & Jacqueline King
38 Brookstone Drive
Block 218.37, Lot 16

Mr. Platt summarized the application stating the Applicant seeks relief from Section 15.013(A)(1), to allow an-inground pool and surround with new patio area along with an existing patio to occupy approximately 42% of the rear yard area where the maximum occupancy for rear yard areas is 25%; From Section 150.13(A)(6), to allow an in-ground pool and surround to be installed with a rear setback of 8' where a minimum rear setback of 15' is required; From Section 150.14(B)(1)(b)(2), to allow the installation of 6' high fencing in the side yards of the property where fences exceeding 4' in height are only permitted in rear yards; 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. Platt asked if Mr. Matlack did the report for this property and if he agrees with the submitted variances resume.

Mr. Matlack confirmed that he did and has the same variances.

Mr. Platt swore in Mr. Kenneth King and Mrs. Jacqueline King.

Mr. Platt asked the Applicants if they heard the three (3) variances and if they agreed with them.

Both Applicants confirmed they did.

Mr. Senges stated the Board needs to hear is some testimony to explain why these variances are necessary as to the fence location and height, the pool setback, and impervious coverage.

Mr. King explained they had interviewed four (4) pool companies trying to comply with the code, and none of them could come up with the plan that would not require variances. They had nothing in the backyard, they finally found the company willing to go through this with them, they however mentioned there was no way to construct the pool without need for variances. They needed a fence surrounding the pool.

Mr. Platt explained the fence that goes beyond the rear of the house must be four (4) feet.

Mr. King stated they have no issue to take the fence down.

Mr. Senges asked if there is a reason why he wanted it where it is now.

Mr. King replied it was in existence and he would be ok either way, if it is easier, they will pull the fence out and make it four (4) feet.

Mr. Matlack asked if there are any side doors in the house.

Mr. King advised there are no side doors.

Mr. Senges asked if they would like to amend the application to “fence in” the patio.

Mr. King replied affirmative.

Mr. Senges addressed the Board for questions and/or comments.

Seeing none, he opened the floor to the public.

Seeing no one in the public willing to speak on behalf of the Applicants, Mr. Senges brought it back to the Board.

Mr. Cohen asked Mr. Matlack to talk about the variance for increased impervious coverage in backyard.

Mr. Matlack asked the Applicant about the drain, it looks like the drain moves water from the middle of their house toward the pool.

Mr. King advised the installer suggested they redirect it, so it drains into the front, not to the pool.

Board members proceeded to review presented grading plan trying to identify the drain.

Mr. Platt noted it is a construction issue as opposed to the Zoning Board issue.

Mr. Matlack explained his concern is that water would be discharging into the neighbor property since it looks like the entire back yard is pushed to the neighbors’ property.

Mr. Platt swore in the contractor, Larry Stoelker with Budd’s Pool and Spa 950 Cooper St, Woodbury, NJ 08096 as Applicants’ witness.

Mr. Stoelker advised he is a salesman and pool designer.

Mr. Platt confirmed Mr. Stoelker is not a professional engineer since they are reviewing a grading plan.

Mr. Stoelker confirmed he is not a professional engineer; however, he works a lot with Jim MacCariella, a licensed engineer.

Mr. Platt explained the law requirements are not to prevent people from using their property but not to cause issues with neighbors so that it potentially could result in water drainage or flood issues.

Mr. Platt pointed out to Exhibit A (1), the page of the grading plan showing the deck drain and asked Mr. Stoelker if the existing design does not present a problem with a runoff and if Mr. Stoelker could explain it in layman's terms.

Mr. Stoelker explained he consulted with Mr. MacCariella. who told him he does it for the entire Voorhees. He further noted the dotted line where you have the concrete from the outside away from the pool, the valley is invisible, but the drain is pushing it to the street. Everything is pushed to go toward the street. Pointing to the Exhibit A (1), he explained how the water gathers and is being pitched toward the front.

Mr. Matlack stated he appreciated the testimony and agrees with it.

Mr. Senges addressed the Board for questions and/or comments.

Seeing no board members having any additional comments or questions, Mr. Platt summarized the Amended Application to allow the pool and new patio along with 6 feet high fence to be approved for the following variances: variance one for impervious coverage to exceed required 25% and allow 42%; variance two pertains to the pool setback of 8 feet where 15 feet is required; variance three for the fence to be 6 feet forward of the rear of the house but only to enclose the patio on the right and equipment on the left side, it will be still beyond the rear.

Mr. Weil motioned to grant relief for all three variances as outlined by Mr. Platt; seconded by Mr. Willard.

Yay: Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Daddario, Mr. Senges, Mr. Pannu, Ms. Tulman

Nay: none

Abstentions: none

With the Motion carried, Mr. Senges thanked the Applicants for their cooperation.

Mr. Platt advised the Applicants his office will amend and issue the Resolution; the Board will memorialize it in the next meeting; the Zoning Secretary will publish Notice of Decision. Anyone from the public can appeal it within 45 days of publication of Notice of Decision. It is applicant's prerogative to wait or start the job at their own risk prior to the 45 days expiration period.

Maasi Shamilov

5 Stead Court

Block 213.04, Lot 50

Mr. Platt summarized the application stating the Applicant seeks relief from Section 152.015(G) to allow impervious coverage for the lot to remain at approximately 52.32% where 45% is the maximum permitted by ordinance; From Section 150.13(A)(6) to allow patio in rear yard to remain with a rear yard setback of 1.93' where a minimum of 15' is required; From Section 150.13(A)(6) to allow patio in rear yard to remain with a side yard setback of 5.89' where a minimum of 15' is required; From Section 150.12(B)(1) to allow a patio to remain in the rear yard with a rear setback of 1.93' where no grading, construction, or alterations are permitted within of 5' a side or rear property line; From Section 150.12(B)(1) to allow a retaining wall to remain in the front and side yard with a side setback of 4.29' where no grading, construction, or alterations

are permitted within of 5' a side or rear property line; 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. Platt swore in Mr. Patrick McAndrew, attorney for the Applicant, and Mike Avila, the Applicant's Engineer.

Mr. McAndrew introduced his client and Mr. Avila.

Mr. Platt swore in Mr. Shamilov at 5 Stead Court, Voorhees, NJ 08043 and Mr. Avila at Avila Engineering 228 White Horse Pike, Berlin 08009. Mr. Avila confirmed he is a planner and an engineer in good standing.

Mr. Platt stated he will stipulate to Mr. Avila's expertise. He added he read Mr. Matlack's September report with a serious of references and would like to know if he concurs with everything in that report, so they are on the same page.

Mr. Matlack acknowledged he did agree with those variances.

Mr. Mc Andrew commented that is with what they started off, but Mr. Avila prepared a new plan which shows the numbers will go down. He added the variances will remain the same, but numbers will go down.

Mr. Senges asked if the new plan will eliminate any variances or will reduce them.

Mr. McAndrew pointed out he was not there in September for the original presentation. He is aware that with the Board's permission it was amended. He stated his client had an opportunity to purchase some ground from a neighbor to extend his rear yard and eliminate most if not all the variances. His client tried to purchase more ground and was going to come in front of the Planning Board, a subdivision plan was drafted for that purpose. The client thought it would require legal help and hired him, and then it all came to a halt. The neighbor changed his mind and decided not to sell. As a result, all the effort and expenses were wasted, and the option is off the table.

Mr. McAndrew asked the Board to review what is existing and what is being proposed. He asked Mr. Avila to present the new plan and Mr. Shamilov fill in the gaps.

The new plan marked as Exhibit A (1) was shared on screen with the reduction of the paver patio (in red on Exhibit A 1).

Mr. Avila provided synopsis of conducted tests and soil boring and permeability reports. He added Mr. Matlack was there for the test. They addressed the concern about the soil and determined it is on an extreme high end of high permeability.

Mr. Shamilov advised the Board he had contacted a local plumber, the drainage was addressed, he then e-mailed CME to address that. He added the intent of so many months of effort was not to encroach into neighbors' property but rather to eliminate variances to meet all setback requirements. He tried to buy the portion of the neighbor's land. There was an initial agreement, but it fell through, and now they are back to square one. To that extent, they tried to cut off the paver and reduce the variance. The math shows instead of 9.9 feet it will be 6 feet of the patio, impervious coverage in front is now less, from 52.3% to 50.3%, rear impervious coverage has been reduced from 37.94% to 28.7%. To recap, none of the variances were eliminated but they tried to comply as much as they can by doing some cosmetics to the site.

Mr. Senges commented to his recollection the retaining wall was presented to eliminate any runoff to neighbors. That was supposed to improve the situation. That variance was granted as a positive improvement and preventive measure, not as cosmetic one. He asked for clarification if the patio has been approved or if it was built outside the parameters of approval.

Mr. Avila explained the general idea and how they wanted to take some of Mr. Shamilov's backyard approved in the past, create this patio for better maximum use of it. Before it was grass, stone area, it did not benefit the owner.

Mr. Shamilov confirmed that indeed they had a permit to create a patio 10 years ago, then they added a fire pit, but then the area between the fabric underneath the stone was not able to hold the weeds and it was getting out of control. He tried to rectify it, spoke with contractors and the contractor suggested to cover the area to make it manageable.

Mr. Senges asked if the original patio was allowed.

Mr. Shamilov confirmed yes, nobody had issues. They signed off on the permit. The original patio was 15 feet away from the property line. The wall on the left was moved further 10 feet. Per contractor's suggestion, he moved the wall on the left approximately 3 feet away to the right.

Mr. Senges asked to clarify if Mr. Shamilov got approval for initial patio and the retaining wall, but then brought a contractor in and the former advised him to make all these changes that did not meet zoning ordinance requirements.

Mr. Shamilov replied yes, and he is sorry about it; he did not follow the proper steps.

Mr. Senges asked for the contractor's name. Mr. Shamilov stated it was the Paver Doctor on Route 73.

Mr. Senges asked if there was a reason Mr. Shamilov is not able to eliminate all existing variances.

Mr. Shamilov responded he is trying. He has lived in Voorhees for 25 years, he has children, he wants to be able to use his yard, when he moved here the yard was not usable. He tried to build retaining wall to manage water runoff and to prevent soil erosion to improve quality of his family's life.

Mr. Senges address Mr. Matlack if he feels the changes will be substantial enough to eliminate problems for neighbors.

Mr. Matlack replied the major thing was the pipe to Lot 44.

Mr. Platt shared his thoughts stating the Applicant argues his lot is of an odd shape. It does not mean that the extensive patio is justified, however it appears that the Applicant is making concessions.

Mr. Platt recommended that Mr. Avila should provide an actual draining plan with calculations that could be reviewed by the board engineer to make sure it works. The Board needs to work with sufficient information to justify the variance. Mr. Avila is a competent engineer, but they must see it on paper reviewed and approved by Mr. Matlack. This is essential element of the Application.

Mr. Senges concurred by saying they need to resolve the issue of adjoining properties. The fact that the Applicant has not done the work yet, is a concern.

Mr. McAndrew stated he agrees with Mr. Platt's recommendation. He added it is his first meeting on this case and he would like to get more specificity.

Mr. Avila commented he also agrees with Mr. Platt. He pointed out that sheet 9 shows grading. They submitted a stormwater report on June 19, 2020 and it was provided for review.

Mr. Platt stated it presents a problem because it is last year report, the drench has been since rerouted, therefore the report is no longer valid and needs to be updated.

Mr. Platt asked Mr. Matlack's opinion, if he had reviewed the information and believes it is sufficient to what is being proposed now.

Mr. Matlack confirmed he needs an updated report to reflect current proposal, as well as a new and revised grading plan.

Mr. McAndrew Patrick stated they can provide it.

Mr. Platt suggested the Board should not take any action at that time. He added when they come back, they want to make sure public has an opportunity to say what they want to say.

Mr. Senges reiterated this is an engineering issue. Turning it to the engineer to provide a new plan in expressed detail is going to be the only way the Board will be confident this is not going to present a problem. Mr. Matlack will need to include additional recommendations.

Mr. Senges asked the Board for comments or questions.

Mr. Daddario stated on behalf of the entire Board they are heading in the right direction, but they need to see exact plan.

Seeing no one in the public willing to comment on the Application, Mr. Senges brought it back to the Board for a Motion.

Mr. Platt stated they are extending the Application and will have a rescheduled date.

Mr. Platt asked Mr. Avila how long he needs to update the report and grading plan.

Mr. Avila asked for 60 days extension.

Mr. Platt confirmed the date works for Mr. Matlack. Upon checking pending applications schedule, Mr. Platt asked the Board to make a Motion to continue this hearing on May 20th, 2021 providing the Applicant will consent on the record for the new action date of June 30th, 2021 at 7:00PM via zoom.

Mr. McAndrews stated the Applicant concurs.

Mr. Platt noted the Applicant will not need to re-notice. He further made sure the public can hear that the Applicant will have to do their homework and come back on May 20th and anyone in the public today can attend May 20th meeting.

Mr. Weil motioned to adjourn the hearing on this case until May 20th as outlined by Mr. Platt; seconded by Mr. Willard.

Yay: Mr. Cohen, Mr. Weil, Mr. Willard, Mr. Daddario, Mr. Senges, Mr. Pannu, Ms. Tulman

Nay: none

Abstentions: none

With no further business to discuss, Mr. Cohen motioned to adjourn the meeting seconded by Mr. Willard.

Stella R. Sytnik
Zoning Board Secretary