

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. Willard, Mr. Daddario, Mr. Leoncio, Mr. Weil, Mr. Cohen, Mr. Cupersmith,

Absent: Mr. Pannu, Ms. Tulman

Also, present: Chris Norman, Board Solicitor; Ben Matlack, Board Engineer, CME;
Wendy Flite, Acting Board Secretary

OLD BUSINESS

Stacy Vana
203 Kresson Road
Block 218.42, Lot 1.01

MDR (R75)

Case #ZC2020-008

The Applicant is returning to the Zoning Board to request the following variances:

From Section 150.12(b)(1) to permit a retaining wall along the eastern property line (common property line with lot 1.02) where the ordinance prohibits grading within 5-feet of a property line;

From Section 150.12(b)(1) to permit pool equipment within the side yard setback;

From Sections 150.12(a) and 150.13(a)(2) to permit the existing tree house to remain where such accessory structures are not expressly permitted and where the structure is located within the outer "zone 2" of the stream buffer conservation zone;

From ordinance section 150.13(a)(7)(e) if the tree house is considered a "shed" to permit a total area of 365 sq. ft. where the ordinance allows a maximum of 200 sq. ft;

and any other variances, waivers or approvals deemed necessary by the Zoning Board.

Mr. Norman stated that the applicant has requested to continue the hearing until July 22, 2021. Also indicated that if the Board members would like to visit the site to review the tree house.

Mr. Willard makes a motion to grant the continuance.

Motion is seconded by Mr. Daddario.

Motion carries with the following roll call vote:

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

Nays: NONE

Abstentions: NONE

NEW BUSINESS

Ryan A. Balfe
12 Foxboro Court
Block 304.02, Lot 26

MDR (R100A)

Case #ZC2021-009

Action Date: 9/24/2021

Mr. Norman summarized the application in detail.

The Applicant is seeking the following variances to permit the construction of a detached garage in the rear yard:

- a. From Section 150.13(a)(1) to permit a sport court to be installed in a side yard where accessory uses and structures are only permitted in rear yards;
- b. From Section 150.13(1)(6) to permit a sport court to be installed at 6' from a rear property line where all accessory uses and structures are required to be a minimum of 15' from the rear property line; and
- c. Any and all other variances, waivers and/or other relief as may be deemed necessary by the Board and/or its professionals.

The Board asked for the applicant could step forward using the "raise hand" feature. Mr. Balfe's neighbor Mr. Stohner indicated that he would try to get Mr. Balfe. Mr. Stohner was unable to locate Mr. Balfe.

Mr. Cupersmith stated that in the essence of time they would move to the next application and circle back to hear this one.

Anjali Bansal & Stephen Dyson
32 Farmhouse Lane
Block 195.04, Lot 1

MDR (R100A)

Case #ZC2021-002

Mr. Norman summarized the application in detail.

The Applicant is seeking the following variances to permit existing non-conforming fencing to remain:

- a. From Section 150.14(B)(2)(a) where fencing is prohibited from being installed within a front yard and both 4' high and 6' high fencing have been installed within a secondary front yard;
- b. From Section 150.14(B)(1)(a)2 where fences not exceeding 4' in height are permitted within side and rear yards only, and 4' high fencing was installed within a secondary front yard;
- c. From Section 150.14(B)(1)(b)2 where fences not exceeding 6' in height are permitted in rear yards only, and 6' high fencing was installed within a secondary front yard;
- d. Any and all other variances, waivers and/or other relief as may be deemed necessary by the Board and/or its professionals.

Mr. Norman swore in Mr. Stephen Dyson.

Mr. Dyson summarized the application seeking a variance for an existing fence that is in their side yard, but due to the lot being a corner lot, there is a secondary front yard where the 4-foot portion extends to the back of the house and then the 6-foot fence begins.

Mr. Cupersmith asked if Mr. Dyson had applied for a permit to install the fence.

Mr. Dyson confirmed that they did and apologized as there was mistakes made on their end. The permit did not go to Mr. Dyson directly, they submitted an incorrect email address. Mr. Dyson indicated that they have been working with the Zoning Officer to get everything resolved.

Mr. Cupersmith asked if the fencing company was involved in any of the process and if they mentioned the setbacks.

Mr. Dyson replied that they installed the fence themselves. They misinterpreted the setbacks and the ordinance. The street they live on is a loopback street, and the wording on the ordinance for corner lots refers to where two (2) streets meet. Mr. Dyson reiterated that it was an innocent mistake on their part.

Mr. Cupersmith asked if any Board members had any questions for Mr. Dyson. The Board members had no questions, Mr. Cupersmith asked if Mr. Dyson had anything else to add.

Mr. Dyson noted that they are more than 65 feet from the corner where a stop sign exists. The fence does not impede any views from the corner. The fence is a minimum of at least 25 feet from the sidewalk and at some points up to 45 feet from the sidewalk. There is no impediment to the corner, nor the property line along the street.

Mr. Cupersmith stated that it is an odd-shaped lot.

Mr. Weil asked if there are any kids involved or safety issues or concerns.

Mr. Dyson confirmed that they have a 3-year-old little girl who was 2 at the time of installation. Their rush for getting it done was to give her a safe place to play since they could not take her to the park during this COVID pandemic.

Mr. Cupersmith opened the application for public comments and questions. No public comment. Public portion was closed.

Mr. Cupersmith asked if the Board had any other questions or comments.

Mr. Weil asked if Mr. Norman could make a summary so that a motion could be made.

Mr. Norman summarized and stated the motion would be to grant the application to permit both 4 foot and 6-foot portions of fencing in the front yard. There is a substantial wooded area in front of the fence which partially screens the fence from view from the street. The fence is about 40 feet from the street. The fence is not particularly visible to the neighbors or have an impact on the neighbors.

Mr. Norman confirmed that there are no conditions needed for this application.

Mr. Weil makes a motion to grant variance relief to allow a 6-foot section of fence where 4-foot is required. The section will be 54 feet long next to a row of trees along the side of the house. Also, to allow 4-foot section of fencing constructed 40 feet from the street in the alternate front yard. Located in the front of the house on the corner lot.

Motion is seconded by Mr. Leoncio.

Motion carries with the following roll call vote:

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

Abstentions: NONE

Nays: NONE

Ryan A. Balfe
12 Foxboro Court
Block 304.02, Lot 26

MDR (R100A)

Case #ZC2021-009

Mr. Norman swore in Mr. Balfe.

Mr. Norman summarized the application in detail earlier in the meeting.

The Applicant is seeking the following variances to permit the construction of a detached garage in the rear yard:

- a. From Section 150.13(a)(1) to permit a sport court to be installed in a side yard where accessory uses and structures are only permitted in rear yards;
- b. From Section 150.13(1)(6) to permit a sport court to be installed at 6' from a rear property line where all accessory uses and structures are required to be a minimum of 15' from the rear property line; and
- c. Any and all other variances, waivers and/or other relief as may be deemed necessary by the Board and/or its professionals.

Mr. Balfe stated that they were applying for the two variances as mentioned. The first variance request to install the sport court in the side yard as opposed to the rear yard is because the rear yard is not capable of having that type of structure due to the narrow size. If installed in the back yard it would take up all of the space between the house and the rear property line. The main yard that is utilized is the side yard which is the desired location of the court. The house is unique in that it is structured on an angle on the lot.

The second variance is to install the court 6 feet from the property line instead of the required 15 feet. The total square footage is proposed to be 900 square feet.

Mr. Cupersmith reviewed the plot plan and indicated that he could see where the court sits in relation to the house. The left appears to be 15 feet and from the back 6 feet. Mr. Cupersmith stated that while he is not an engineer and he will let the Board Engineer speak to the application in a moment, it appears to be enough movement to move it forward from the requested 6-foot rear setback and asked for Mr. Balfe to speak to that.

Mr. Balfe stated that the yard is on a hill. The section proposed for the court to be located is the only flat surface to be able to install it. The other section that Mr. Cupersmith mentioned is on a hill and a flat surface court would not be able to be installed there.

Mr. Matlack stated that the current plan with the 6-foot set back from the rear property line has grading going on that would create a 3:1 slope within those 6 feet behind the sports court which triggers another variance

with regards to grading within 5 feet of the property line. It looks as though the court drains to the rear of the property line.

Mr. Matlack stated that he did not have any information on the grades of the neighboring properties but has concerns about it being detrimental to the neighbors. It would require grading to be done to move the court forward, however it is going to require grading to put the court where it has been proposed on the application.

Mr. Matlack asked Mr. Balfe if there was any reason why they can't consider moving the court forward to reduce the rear setback request.

Mr. Balfe stated that he was not sure as he was relying on the advice of the architect that created the plans as well as the contractor performing the work. Those professionals stated that was the only spot that the court could be installed.

Mr. Balfe stated that because he is not a professional it would be difficult for him to speak with respect to the gr

Mr. Norman asked if Mr. Balfe spoke to his neighbor to the rear of his property at Block 229.23 Lot 7 and if that is Mr. Stohner's property. If not, who is potential impacted by it.

Mr. Balfe stated that Mr. Stohner's property is not to the rear, if facing the property they are to the right.

Mr. Norman asked if they were lot 37. Mr. Balfe stated he believed that to be correct.

Mr. Balfe stated that they did not consult with the neighbors to the rear of their property, however they provided notice of the hearing.

Mr. Willard asked if there was lighting on the court.

Mr. Balfe confirmed there would be lighting on the court.

Mr. Cohen asked for Mr. Balfe to confirm the size to be 900 square feet. Mr. Balfe confirmed that it is 30 x 30, so that is correct.

Mr. Cohen remarked that typically the Board would help those who were requesting variances for swimming pools that come in all shapes and sizes to find another spot on the property, however this sport court does not allow them to find another place to accommodate the size. Mr. Cohen asked if the plans could adjust the size of the court to allow for more of a rear setback.

Mr. Cohen asked in an example if Mr. Balfe would be able to move the court another 3 feet or so and if there would be a reason that request could not be accommodated.

Mr. Balfe could not speak to that specifically as he was relying on the architect's plans and the contractor performing the work.

Mr. Cupersmith stated that the Board are laypeople, and they rely on their professional's expertise and asked if Mr. Matlack had any recommendations.

Mr. Matlack stated that he agrees with what Mr. Cohen had recommended which would be to reduce the court to a different size such as instead of 30' x 30' to make it 30' x 25' or 30' x 20'. Mr. Matlack asked Mr. Balfe if that could be an option.

Mr. Balfe indicated that while he went through the plans, the architect specified that if they moved forward with the 900 square feet that it would not fit within the 6-foot setback and that he is unsure if reducing the size of the court would make that much of a difference.

Mr. Matlack asked if the usability of the court would be diminished by reducing the size.

Mr. Balfe stated it would be a half court and confirmed he is open to reducing the size of the court. Mr. Balfe believes that there would still need to be clearance for a 9-foot variance instead of a 6-foot, but they still may not have enough room, but the architect would need to advise.

Mr. Cohen clarified that the Board is not trying to ask that he put the court in the rear yard. The Board understands why it needs to be in the side yard but are trying to see if it's possible to do a 9-foot setback instead of the requested 6-foot.

Mr. Balfe stated that both the backyard and the side yard are sloped. On the side yard the slope is to the 6 feet mark. If the area was not sloped, they would not need a 6-foot variance.

Mr. Matlack confirmed as per the grading plan that there appears to be a 7:1 slope between the house and the court. The maximum slope that could be had is 3:1 which means there is room for grading. While the grading may not be desirable to complete, it can be done for the usability of the yard.

Mr. Matlack stated that doing some additional grading or putting in a retaining wall could be an alternative to move away from the rear property line.

Mr. Cupersmith asked Mr. Matlack to confirm the location of the retaining wall.

Mr. Matlack stated that the retaining wall would be located on the front side of the court, so they did not have to cut into the slope as much. There is room to be able to move the court to meet somewhere between the 6-foot request and 15-foot setback.

Mr. Balfe stated he understood and asked if Mr. Matlack believed there would be any drainage issues if they moved the slope.

Mr. Matlack stated that the slope is draining towards the court now, so the change would not make a difference in drainage.

Mr. Cupersmith stated that Mr. Balfe had a choice to proceed with the application as it is currently or to think about his options to compromise to 9-foot setback and come back to the Board.

Mr. Balfe stated he understood all of the remarks and concerns however he stated he would like to respectfully proceed with the application as it stands.

Mr. Weil mentioned that there is a shed to the right side and to level off the land the shed would have to be shimmied. Mr. Weil asked for Mr. Balfe to walk through what would need to occur for the slope on the left-hand corner and asked him to reference which of the photos provided make up the left corner.

Mr. Weil stated that while looking at the photos there is a considerable slope. Mr. Balfe gave an overview of where each of the photos are located indicating that the yard is higher towards the driveway, and it gradually slopes down to where the shed is pictured. On the left-hand side from the edge of the house to the fence slopes until reaching the property line.

Mr. Weil asked if the back left-hand corner was the flattest part of the yard. Mr. Balfe confirmed that it was the only flat part of the yard.

Mr. Leoncio stated that if the court is moved towards the house there may be a 6 inches difference for the slope, and it may be worth it to move it since the court is being graded already.

Mr. Matlack confirmed that Mr. Leoncio is suggesting moving the court parallel to the side property line, away from the rear yard about 5 feet or so it would cut into the slope about 6 inches. That would be the grading that would need to be required, an additional 6 inches. It would reduce the setback to 9 or 10 feet instead of the 6 feet requested.

Mr. Balfe asked if that would require a new application.

Mr. Norman asked Mr. Matlack if Mr. Balfe would need to submit a new plan or a conformance plan. Mr. Matlack stated a revised plan could be submitted stating that the grading would be completed. Mr. Norman confirmed that Mr. Balfe would need to submit a revised plan showing that the rear setback would be at 9-10 feet.

Mr. Balfe asked if he would proceed with his application as is or need to put in a new application with the adjusted setbacks.

Mr. Matlack explained that Mr. Balfe would now enter a request for the revised setbacks during the meeting.

Mr. Norman asked if the lighting that will be installed would be facing back towards the neighbors.

Mr. Balfe confirmed that the lighting will not be facing the neighbors. The court would be surrounded by landscaping which would provide some protection from the light, as well as sound.

Mr. Cohen asked for Mr. Norman to confirm that if Mr. Balfe chose to consult with his professionals, he could place the application on hold and postpone until he had time to consult with them.

Mr. Balfe stated that he did not mind moving the court so that there is a 9-foot setback instead of a 6-foot. His only concern with moving forward with the revised setback is that the professionals were very adamant about the location selected being the only location the court could be installed.

Mr. Cupersmith asked if Mr. Balfe wanted to continue with the application or move forward with an adjustment to 9 feet.

Mr. Balfe asked if he chose to proceed with a request of a 9-foot setback, if it would be voted on this evening.

Mr. Norman stated the vote would take place tonight however, should there be an issue where the architect does not support the change there is a Request for Reconsideration that can be filed. There would be another hearing, the architect would need to be present for that hearing as the Board and their professionals rely on expert testimony.

Mr. Cohen stated that the location of the court will be the same, it is just being made a bit smaller than it was on the one side.

Mr. Balfe stated he had no issues with making the court a little smaller and asked that instead of being at 9 feet if the Board would consider 8 feet.

Mr. Cupersmith indicated that the Board compromised down to 9 feet from 10 feet. Mr. Cupersmith stated that Mr. Matlack, the Board's engineer was referring to it being at 9 feet.

Mr. Balfe requested to move forward with the revised 9-foot setback variance request.

Mr. Leoncio stated that with the 9-foot setback Mr. Balfe could still keep the 30 x 30 dimension, so long as the setback stays at 9 feet.

Mr. Willard confirmed that the court did not have to be smaller.

Mr. Cupersmith asked if Mr. Balfe would confirm that he would like to proceed with requesting the setback at 9 feet instead of 6 feet.

Mr. Matlack stated that the Board is not voting on the size of the court, they are only voting on the setbacks on the variance. If Mr. Balfe should talk to his architect and they say they could only do 30 x 27 to accommodate that variance, that's what he can build. If they can do it as a 30 x 30, that's what they can build. Either way the setback would be at 9 feet.

Mr. Balfe confirmed he would like to proceed.

Mr. Cupersmith opened the meeting up for public questions or comments.

Mr. Matt Stohner of 11 Foxboro Court was sworn in by Mr. Norman. Mr. Stohner stated that he lives to the right of Mr. Balfe and is in full support of Mr. Balfe's plans.

Mr. Stohner stated that his house is higher than Mr. Balfe's house. His house is about 10 – 12 feet off the road and has a yard that slopes similarly to Mr. Balfe's. Both properties are at the edge of the cul-de-sac and Mr. Balfe is very much cut off with a smaller backyard.

Mr. Stohner indicated that there is a lot of screening on all sides. Their properties reside in Sturbridge Woods so the properties have to adhere to the rules and regulations of the homeowner's association. They are unable to remove any trees, etc. The rules set forth by the association state that there should be screening on each property from themselves, their neighbors on all sides and the street.

Mr. Stohner stated that if you look on Google Maps you will see that they are the last houses in the section of Sturbridge Woods and Sturbridge Lakes is on the other side. There is a substantial amount of buffer behind Mr. Balfe's house where the street Lexton Run is located. There is a substantial amount of space to provide for screening.

Mr. Stohner indicated that Mr. Balfe has 3 very active kids and currently they are playing in the driveway and the installation of the court would provide for a safer place for the kids to play.

With no further comments from the public the public portion is closed.

Mr. Weil asked for Mr. Norman to make a summary of the application so that the Board could make a motion.

Mr. Norman summarized that the applicant has agreed to modify his application. Instead of seeking 6 feet from the rear property line, the applicant is seeking 9 feet. The requirement is 15 feet. The additional variance is that the court is being installed in the side yard.

Mr. Weil makes a motion.

Motion is seconded by Mr. Cohen.

Motion carries with the following roll call vote:

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

Abstentions: NONE

Nays: NONE

Mr. Cupersmith asked if there was any additional business for the evening. Ms. Flite indicated that there was no further business and that the next meeting is scheduled for July 8, 2021 and is for Wawa.

Ms. Flite asked if anyone was not present in the last meeting for Wawa so that a link can be provided to those who were not, so that they could watch/listen and participate in the vote.

Mr. Cupersmith opened the meeting to the public for any other comments or questions. No questions from the public, public portion closed.

Mr. Norman stated that this meeting is the 3rd meeting in the month of June that the Board has meet and commended them for their service.

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

Jennifer Gaffney
Zoning Board Secretary
Voorhees Township

Minutes prepared by Jennifer Gaffney. The minutes are intended to reflect the basic comments and action. Verbatim transcripts of all electronic recordings can be available upon proper request and payment.