

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

Absent: Mr. Pannu

Also, present: Mr. Norman, Board Solicitor, Mr. Matlack, Board Engineer CME; Stella Sytnik, a pro tem Board Secretary.

RESOLUTIONS FOR APPROVAL

Mr. Cohen motioned to approve the following **RESOLUTION ZC2021-002** regarding Anjali Bansal and Stephen Dyson, 32 Farmhouse Lane, Block 195.04, Lot 1; bulk variance approval to permit existing non-conforming vinyl fencing of 6 feet and 4 feet in height to remain in the front-yard and secondary front-yard; motioned by Mr. Weil, seconded by Mr. Willard; none (0) against:

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

Abstentions: Ms. Tulman

Nays: None

Mr. Willard motioned to approve the following **RESOLUTION ZC2021-009** regarding Ryan A. Balfe at 12 Foxboro Dr. Block 304.02, Lot 26: Bulk variance relief to install 30'x30' sport court within the back corner of his property; motioned by Mr. Weil, seconded by Mr. Cohen; none (0) against:

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

Abstentions: Ms. Tulman

Nays: None

MINUTES FOR APPROVAL

Mr. Willard motioned to approve the Minutes from the July 8th meeting; seconded by Mr. Leoncio; none (0) against:

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

Abstentions: Ms. Tulman

Nays: None

OLD BUSINESS

Stacy Vana
203 Kresson Road
Block 218.42, Lot 1.01

MDR (R75)

Case #ZC2020-008

Mr. Cupersmith opened the meeting by inviting the Applicant to come forward.

Mr. Norman summarized the application and pointed out the board took care of all items in the previous hearing other than a tree house.

The existing tree house requires relief from:

§150.12(A) to permit the tree house to remain where such structures are not expressly permitted, •
§150.13(A)(2) to permit the tree house to remain at a height exceeding 15' where accessory structures are

prohibited from exceeding 15'.

§150.13(A)(7)(e) to permit the tree house to remain at 365 S.F. in total area where sheds are prohibited from exceeding 200 S.F. in total area between all sheds on a given property. Note: This Section only applies if the tree house is deemed to be a "shed." If it is deemed a shed, it will effectively prohibit the property owner from installing any other shed on the property since sheds shall not exceed 200 S.F. in total area. (Note: A second shed is shown to be proposed on the submitted plan.)

§154.016(D) to permit the tree house to remain within the outer "Zone Two" of the Stream Buffer Conservation Zone where any use not authorized within §154.016(C) is prohibited. (Tree houses are not authorized in §154.016(C).) In addition to the above, variances and/or design waivers would also appear necessary for the following.

Mr. Cupersmith invited Ms. Stacy Vana, the applicant.

Mr. Stofman, the attorney for the applicant and Mr. Mancini, applicant's engineer, were invited to testify, both previously testified and remain under oath.

Mr. Norman confirmed the only relief the applicant was looking for is §154.016(D) to permit the tree house to remain within the outer "Zone Two" of the stream buffer conservation zone where any unauthorized use within §154.016(C) is prohibited. Tree houses are not authorized in §154.016(C). There is a little discretion in this case because the tree house is significantly above the ground, so the question is if it is really encroaching.

Mr. Stofman cross examined Mr. Mancini to clarify that the tree house is not a storage, that is why it cannot be considered a shed. Ordinance does not deal with specific tree houses, this is more like a swing set structure and for that purpose, it may not fit definition of the shed.

Mr. Mancini confirmed any shed is used for storage, this structure is more akin to play equipment, the accessory that is permitted in MDR zone. Whether anyone considers it to be a play structure or a shed, he will prove the benefits will outweigh detriments. Mr. Mancini shared the plan on screen, google earth imagery dated October 2020. He stated it is outer of conservation zone, they treated it as a shed and applied the rules for sheds. He will make a case it is not a shed. Residents are allowed to have two sheds, but total square footage cannot exceed 200 feet and be higher than 15 feet. MDR zone does not permit these structures. It is 390 feet from Kresson Road and substantial distance from any other property, 190 feet from the residence. Colors and materials are natural, to promote land use law thus creating desirable visual environment. The shed has no environmental impact, no DEP role required. He zoomed on the submitted plat plan (Exhibit A-1). Pointed out protecting stream is understandable but the shed in this location will have no detriment. As to negative criteria, the size of the property, the depth of landscape and setbacks would all diminish the deviations. It does not impair the stream buffer. The way it is elevated, the tree house does not impact the function of the stream. Whether one deems it to be a shed and denies the variance, the owner can add another shed in the future. Mr. Mancini concluded his testimony stating he is satisfied with all the variances requested to be granted without any substantial impairments to the ordinance. He shared the picture of the tree house (Exhibit A-2) concluding it is a nice structure and it is not something displeasing esthetically.

Mr. Norman stated the board has heard the argument that it is not a shed. He believes there is merit to the argument. This is recreational amenity for children. The height of it is a different issue.

Ms. Tulman asked about the height of the tree house.

Mr. Mancini replied it exceeds 15 feet by a couple of feet, so it is approximately 16-17 feet.

Mr. Cupersmith asked the board for questions and/or statements.

Mr. Matlack advised the board he spoke with Mr. Mancini before this meeting about applicability of the DEP regulations. He agrees with Mr. Mancini about location of the hazard plan, he does not think it requires a permit, it falls under township ordinance, it is above ground, it does not disturb anything underground.

Mr. Norman added tree houses are regulated by construction officials, which is a different element than zoning, no zoning inspections are required.

Mr. Cupersmith stated he does not see any difference between applicant's testimony from last time and opened the floor to the public.

Mr. and Mrs. Keith and Deborah Raveling, still under oath, spoke against the approval of the tree house.

Mr. Norman requested to pull up the map (Exhibit A1) to show where their house is in relation to the tree house.

Mr. Raveling explained they are almost exactly across the tree house. Pine tree sits in the middle of the house.

Ms. Stacy objected it is green all year long since it is a pine tree.

Mr. Norman requested no interruptions to ensure effective hearing process.

Mr. Stofman noted this aerial was taken during full foliage in October 2020.

Mr. Raveling noted the pine tree and the tree house are there all year long. Somebody built a “log cabin” behind their house. Before they had a wooded lot, but he understands that is the new owners’ right. He and his wife are looking at the structure all year long. This is not a tree house but a fort. He and his wife complained, and the Vanas were denied a tree house in July 2019, however they continued to build. He believes they need a zoning permission. He concluded by stating his main question - if the applicant is seeking relief, what was the hardship.

Mr. Norman noted this is a legal question. The fact is when anyone applies for bulk (c) variance, one of the grounds is undue hardship, the other grounds may represent a better planning alternative. They could reduce the height of the tree house. The question is would it be a better alternative. Negative criteria would be impaired to the surrounding properties. The board saw the evidence, in winter it appears to be visible. That addresses the negative criteria. The positive criteria are that perhaps they needed this height because of the trees. What is customary to tree house is that they tend to be above ground. Whether it is beneficial, it would be up to the board to decide. The board could take cognizance that state does not even regulate tree houses. Is it that much of a negative? It is certainly behind the neighbors’ house, but it is 190 feet from the front. From the back of their house, it is 120-140 feet. As related to conservation easement, Mr. Norman does not see any threat to any environmental conservation area. It comes down to aesthetics, some think it is beautiful, some think it is not.

Mr. Raveling added to them it is beautiful, to him it is not. According to construction officials, it is one big empty room. It is close to 20 feet tall. Doesn’t look like a swing set, particularly if you look at the side views.

Mr. Stofman noted he had put in big swing sets, they have huge structures steering wheels, fake boats, the one in his backyard is not smaller than this one.

Mr. Willard asked for clarification if the tree is to the left of the tree house, and if it were perpendicular, would that solve the problem.

Mr. Raveling stated he had asked Mr. Vana to plant trees, but he refused. He added they are in residential area since 1994 and he understands people use their houses however they prefer, but Mr. Vana owns construction company, and he has people and trailers in the backyard whenever he wants. That trailer now sits in the front. If someone goes without zoning approval, how long is it going to be before they get a violation notice. They did not have Certificate of Occupancy for two years.

Mr. Norman stated issues of past non-compliance are not considered relevant. The board cannot consider that. The purpose of today’s hearing is yes or no to variance.

Mr. Raveling added his final point, there is a law not to exceed 15 feet and it does. They did build it and now they are seeking relief from that, why did it have to exceed 15 feet.

Mr. Stofman noted this is what the variance procedure is for.

Mr. Raveling concluded by using the old saying “it is better to ask for forgiveness later than for permission now”.

Mr. Norman asked the board to proceed and stated they have three options: 1. They can say yes to the variance and the case will be over; 2. They can say no and then enforcement will be issued; 3. Unique issue they have the right to grant alternative relief, or relieve with conditions, grant relief subject to planting trees to help hide the view from the Raveling house.

Mr. Willard asked the applicant if they are still against planting trees.

Ms. Vana noted this was a false statement as others presented by Mr. Raveling. Her husband offered trees to Mr. Raveling, but the latter was not nice to him. Should Mr. Raving had agreed, she would not have spent hundreds of dollars on legal fees.

Mr. Willard reconfirmed whether the Vanas are willing to plant the trees.

Ms. Vana confirmed that they did. She added she does not want to tear it down after all the work put into it, her children need it.

Mr. Matlack stated if future condition to be imposed about height of the tree, 14 feet evergreen tree is not typical, 8-10 feet is more typical. If they implement this condition, the applicant could try to obtain a certain size but minimum 8 -10 feet would be required. They grow fast.

Mr. Cupersmith asked if there were other speakers in the public.

With no one in public willing to speak on this application, Mr. Cupersmith brought it back to the board.

Mr. Willard suggested they needed to be concerned with width or rather several trees to make up a certain width.

Mr. Cupersmith noted they are not qualified to estimate that.

Mr. Matlack recommended the applicant should submit plan with conditional approval, they could recommend a minimum width of trees.

Mr. Mancini stated he would like to point out to the existing 1-2 trees already there to obscure the view, but they will comply with more.

Mr. Matlack agreed with Mancini's suggestions.

Mr. Cupersmith stated he would like to see the landscaping.

Mr. Weil added as Mr. Willard suggested they need to make sure the view gets taken care of, in original hearing the applicant stated evergreen tree covered the view which is obviously not true. The tree does not cover the house.

Mr. Norman noted Mr. Matlack probably has an architect.

Mr. Willard asked Mr. Matlack for recommendation of certain trees.

Mr. Matlack stated there are a whole lot of appropriate trees, they will review and make sure it meets requirements.

Mr. Cupersmith asked for the applicant to present a landscape. Added it bothers him that the owner is a builder, he knows he was in violation, the applicant is asking for forgiveness rather than permission. He asked if the applicant agrees to amend the application.

Mr. Stofman responded with absolute confirmation.

Mr. Norman read the motion to grant the variance to permit the tree house subject to landscaping and submission of a landscape plan including trees of minimum height 8-10 feet, sided to adequately screen the treehouse from the Raveling property when the trees reached maturity.

Motioned by Mr. Willard, seconded by Cohen, the motion carried:

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

Abstentions: Mr. Leoncio

Nays: Mr. Cupersmith

Mr. Norman added Mr. Matlack will present the plan to the board. Mr. Norman will also talk to the Ravlings to make sure they agree with the plan. The 45 days appeal applies but not before they memorialize the resolution. He will ask the applicant's attorney to submit the plan before they memorialize the resolution. He will request to plant the trees in the fall. Mr. Matlack confirmed the plans will include timing of planting and that the zoning officer could intervene in case of any violations.

Khmer Buddhist Humanitarian Association, Inc. B (Business) Case #ZC2021-007
1234 Berlin Road
Block 262, Lot 2

Mr. Norman summarized the application stating the Applicant is seeking an amended site plan approval to allow changes to the worship building footprint, the installation of a raised walkway around the building along with stairs and a ramp for access, and minor changes to the front walkways and meditative gardens. No new variances are requested. The only thing is the slight increase in building coverage of 565 feet. It does not require any variance relief.

Mr. Cupersmith invited the Applicant to come forward.

Mr. Baranowski introduced Mr. Khan, the principal and executive director, Mr. Anthony Sirazatti, the architect, Mr. Paul Withhorn, the engineer.

Mr. Norman swore in Mr. Alexander Khan, Mr. Anthony Sirazatti, Mr. Paul Withhorn.

Mr. Baranowski stated they are seeking an amended site plan and minor changes to meditative garden. They are not requesting any new variances. Initial variances were granted (d) (c) waivers, everything remains unchanged. In terms of operations, traffic worship services remain the same when it was presented in 2014 and modified in 2018. They reviewed CME letter, no issues with any comments. Current proposed plan changes are minimal. They resulted from some religious experts' evaluation of the final plan. 2nd floor needs to be smaller; 1st floor needs to be a little larger. Important to know once the temple structure is built, it cannot be changed. That is why they are tweaking it now. They are also seeking an extension of time to finish wall and gates. The board remembers what has been happening, they made a lot of progress, but they need additional time. They are asking until August 31st of this year to finish front wall and until August 31st next year to finish off the gates (4 entrances ways with decorative elements), archway with entrances and exits. They need to be completed, they are not because the Association had significant difficulty with immigration trying to bring the monks to the USA, even before Covid. The monks are instrumental, for religious reasons they are the only ones who can cement the tiles in the gates structure and the temple. We had difficulty getting enough monks here. Those who were here worked very hard to get things done, but 2020 Covid like most other construction site we were shut down. Travel restrictions, after pandemic we resumed work. They plan on bringing 6 more monks. The front and rear wall are essentially finished. Need to finish gates and top off the gates with arches and tiles. This is part of their Phase I approval. Phase II is worship building. Phase III is ceremony building. Tonight, if the board would allow, they would start Phase II of the worship building. This is critical. Once they have the monks here, they need to use their time efficiently. That will give the project a big boost. Picking up momentum and maintaining it is critical.

Mr. Khan confirmed they are anxious to continue the work. They acknowledge the board members have been very understanding with the community, made recommendations to move forward to achieve the mission of association. They deeply appreciate it. They want to finish the walls and gates and start the worshiping temple. He assured the board they are anxious to get things moving along, the delay is not for the lack of effort.

Mr. Cupersmith praised the Association and suggested to come up with more realistic date than the date of August 31st. He noted they do not want for the applicant to be needing to come back and have another hearing, they want the Association to succeed. More realistic date would be perhaps December 31st rather than August 31st. He then requested for the applicant to be concise.

Mr. Khan stated he is the newly appointed director of the association and will be the point of contact. He confirmed Mr. Baranowski's testimony was 100% factually accurate. They have volunteers, they want to start the temple construction. Mr. Cupersmith's proposed time extension until December 31st of this year would be great. They are working hard with immigration authorities to bring more monks. They are having issues but will continue to do their best, they want the project to succeed.

Mr. Withhorn, the engineer, came forward and shared his credentials. Upon board's acceptance of his credentials, Mr. Withhorn shared two exhibits, the original site plan (Exhibit A1) and a handicapped ramp (Exhibit A2). He described the proposed changes, such as expansion of patio footprint to the north of the building and compression of site walk areas in the gardens. He testified that no planting was lost, no substantial changes to stormwater management system was made, and no increase to offsite discharges. Additional square footage of increased patio will be prepared as coarse pavers, they accounted for a fractional increase in water shift. There will be no detriment to pervious area.

Mr. Cupersmith addressed the board for any comments and/or questions.

With no questions from the board, Mr. Sirazatti, the architect, presented his credentials which were accepted by the board.

Mr. Sirazatti demonstrated the 1st floor plan drawing (Exhibit A3). He stated that after original approval, they sat down with religious experts and realized they have too many people upstairs in the private space, and not enough in the public. Therefore, they shrank the 2nd floor from 60 to 36 mats and increased the lower level. It shifted the total square footage in additional 560 square feet. He noted that 2nd floor (Exhibit A3) is only reserved for monks and 1st floor (Exhibit A4) is reserved for the congregants. On high holidays there may be more monks, but the 2nd floor is reserved for monks' use. The ground floor is where the public participates in religious holidays, it is around 1000 square feet bigger. They reduced upstairs by 60 square feet. There are only three high holidays, therefore, more monks on the second floor would happen only three times a year. He concluded by explaining it will be same use but in his initial design he did not have the break down of public and private areas designation. Also, the temple wanted to raise the original patio two feet and that resulted in the handicapped ramps. Ramps were designed to maintain the processional aspect of the service. This way, the congregants will not lose sight of their destination when walking out of the meditative garden.

Mr. Sirazatti's comments concluded all direct witnesses' testimony.

Mr. Cupersmith addressed the board for any comments and/or questions.

Mr. Matlack clarified that increasing number of mats would not increase public participation and that there will be no increase in use of the structure which would increase traffic.

Mr. Baranowski confirmed this was correct.

Mr. Willard asked about the timing of the temple construction launch.

Mr. Khan explained they zoomed on August 31st in order to start the groundbreaking of the temple in September or October. Wall construction would be completion of Phase I, they will start pouring concrete. He estimates the entire completion will take five years overall, structurally it will be done in two years.

Mr. Willard expressed concern the extension would delay construction of the building.

Mr. Khan assured it will not, they have 20-30 volunteers to finish the walls. Then they will get bids on construction. It will be finished in September or October.

Mr. Willard pointed out the board made commitment to residents which it did not meet. They owe it to residents in the neighborhood.

Mr. Matlack inquired about the status of temporary building.

Mr. Khan explained it is in place. Certificate of Occupancy was issued that morning and will be removed once the temple construction is completed.

Mr. Matlack asked if their previous approval was still in place - once the worship building is constructed, the temporary one will be removed.

Mr. Khan confirmed that was correct.

Mr. Matlack asked if there will be any improvements made to stormwater management basin because of changes to the plan.

Mr. Withhorn stated slight adjustment on the outer structure can be done with this application. They would not hesitate to make that change if needed.

Mr. Cupersmith asked for additional questions from the board for the witnesses. Seeing none the Chairman opened the floor to the public.

Ms. Gwen DiVera was sworn in and testified in support of the application. She stated she commends the Cambodian community for their work. People from all over the world will be coming to visit Voorhees. This is the first worship building to be constructed here in Southern New Jersey and they should be proud of it. She stated these people are hardworking and friendly, they bother nobody, and she commends all the board members. She noted people visiting will be staying at hotels and buying gas and perhaps buying houses here in Voorhees. All of this is good for this township.

Mr. Norman summarized the motion to grant the proposed variance and to add the approved request for time extension for the completion of the wall by end of December 31st of 2021, and for the gate installation by December 31st of 2022.

Motioned by Mr. Weil; seconded by Mr. Cohen the motion carried:

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

Abstentions: None

Nays: None

Mr. Cupersmith opened floor to the public for any other unrelated matters. Seeing no one wishing to speak on any issues and with no new and/or further business to discuss, Mr. Willard motioned to adjourn the meeting seconded by Mr. Leoncio.

Stella R. Sytnik
A pro tem Zoning Board Secretary
