

Regular meeting of the Haworth Zoning Board of Adjustment on August 4, 2015, at the Municipal Center.

PRESENT: Dennis Posen, Chairman
Richard Ehrenberg
John Paquet
Jeffrey Lester
Catharine Luby
Joseph Panzella
David Roth
Octavio Valdivia, Alternate 1
Laura Weingardner, Alternate 2

Alexander West, Board Attorney
Andrew Rosenberg, Council Liaison

ABSENT:

Mr. Posen called the meeting to order and upon roll call, the above Members were present.

ACCEPTANCE OF THE MINUTES

Mr. Posen asked to amend page 41, ninth paragraph, second sentence of Mr. Colloris's statement to, ~~he~~ he said the lot was undersized but there were limitations as to where they could build.

Mr. Ehrenberg moved to approve the minutes as amended subject to the rights of absent members for statements directly attributed to them.

Seconded by Mr. Paquet and unanimously carried, with the exception of Mr. Lester, who abstained.

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CORRESPONDENCE

- Letter relating to the Latte Application and the Governing Body with regard to Borough-owned property.

Mr. Posen noted for the record that the Latte Application was scheduled to be first on the Agenda this evening. However, since neither Mr. Latte nor his attorney was present, the next case would be heard first.

GOLDSTEIN MEMORIALIZING RESOLUTION

The Goldstein Memorializing Resolution was reviewed.

Mr. Ehrenberg moved to approve the Resolution as presented.

Seconded by Mr. Roth and upon roll call of the members eligible to vote, the vote went as follows: Yes - Mr. Ehrenberg, Mr. Roth, Mr. Valdivia, and Mr. Posen; No - none. Motion carried.

MORDINI APPLICATION (continuation)

Mrs. Luby recused herself since she has had business dealings with the applicant.

The proposed Landscape Plan and fence specifications relating to this application were distributed.

In essence the following statements were made.

Mr. Abramson, from Edgewater, New Jersey, appeared on behalf of the applicant. He said that the original application was for a 6 ft. fence on Schraalenburgh Road but they heard a lot of feedback and went back to the drawing Board. Mr. Abramson said that they were introducing a berm with a 4 ft. open fence as well as proposed landscaping in front of the fence. He described the proposed 6 ft. and 4 ft. shrubs behind and in front of the fence. Mr. Abramson said that the fence would be only 4 ft. tall, and would be in compliance. He said they did not agree with the Board that the fence was in front of the residence, however, under these circumstances, the applicant has eliminated the impact and made an effort to beautify the area.

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Mr. Posen re-read for the Board the original letter of denial dated May 5, 2015. He asked Mr. Abramson to rephrase the amended application.

Mr. Abramson said that a solid 6 ft. fence in front was not allowed so the applicant reduced it to a 4 ft. fence and a berm. He said the Board members had suggested a berm so there would be 6 ft. and 4 ft. berm in back and one in front of the fence. Mr. Abramson said they would also provide a nice landscaping buffer. He pointed out that the open fence was not solid.

Mr. Posen asked if they were reducing the fence on the side to a 4 ft. height

Mr. Abramson responded that the 6 ft. side-yard fence had not changed.

The Landscaping Plan, consisting of 6 pages was marked into evidence as Exhibit A-1.

Mr. Ehrenberg asked the applicant if he withdrew the application that called for a fence on the Pine Street side. He said that, according to the Plan, there wasn't any fence in that location.

Mr. Abramson responded that he thought there was a fence in that area at the present time.

Mr. Ehrenberg asked if he was correct that there would not be a fence in the front of the building line on Pine Street.

Mr. Abramson responded that he was correct.

Mr. Posen asked them to explain the gate shown on Schraalenburgh Road.

Mr. Mordini stated that they needed the gate for the lawn mower.

There was discussion and the Board felt that the gate was not necessary and it would be a safety problem.

Mr. Paquet noted that the drawing showed that all of the fence and landscaping was being located on town property. He pointed out that the Plan showed a utility pole right there on the town's easement.

Mr. Paquet talked about the location of the property line. He then asked to see the original survey.

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Mr. Abramson did not have the survey. He then said that there was an existing rail fence.

Mr. Paquet stated that the drawing shows that all of the applicants' fences and landscaping was on town property.

Mr. Posen pointed out that the applicant had an accessory structure, a shed, and a boat in the front yard and none were legal in front yards. He referred to Mr. Renaud's letter, which notified the applicant that structures were not allowed in front yards.

Mr. Abramson stated that they were not seeking approval of that shed.

Mr. Ehrenberg questioned the need for a 6 ft. fence in the side yards.

Mr. Abramson replied that they were just replacing another 6 ft. fence.

Mr. Mordini stated that a neighbor had a fence which was more than 6 ft. high.

Mr. West asked if it was the property to the south and Mr. Mordini said that it was.

Mr. Abramson stated that it would look funny if they had a 4 ft. fence.

Mr. Posen then brought the Board's attention to a case, which had been decided in 2002, relating to property on Schraalenburgh Road, which went to Summit Place and came out at Chestnut Bend. He said that it was a remarkably similar case.

Mr. Posen stated that the application had been approved at that time and was a compromise for moving the 4 ft. open fence 18 ft. from the property line. It was clearly back enough and they could still do anything that they wanted to do in that yard. He asked everyone involved to look at that property. Mr. Posen said they had a great solution to their problem with as to what was a front yard and what was not a front yard.

Mr. Posen said he has a hard time with the applicant wanting to build on the property line next to the street. He also felt the applicant should not have a gate on Schraalenburgh Road because it could result in dangerous accidents.

Mr. Posen noted that he had reviewed the minutes from the 2002 meeting.

Mr. Abramson said this was the first time that the other case had been raised.

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Mr. Posen opened the meeting to the public for questions. He explained for those people who have not been at a meeting before that the Board would now be opening the meeting for questions. Later on in the meeting, the questions and opinions of the public would be heard and then the Board would ask their own questions.

Mickey Tinter, of 290 Schraalenburgh Road, stated that he has been a resident since 1978. He said his address was on Pine Street and not Schraalenburgh Road but Pine Street was a front yard. He said he didn't understand all of this.

Councilman Rosenberg noted that Mr. Abramson said that the applicant was replacing both 6 ft. fences on the South and not on the North but the applicant was seeking to replace both.

There being no one else to come forward, Mr. Posen closed the meeting to the public.

Mr. Paquet said he would feel more comfortable if they had a proper survey.

There was discussion.

Mr. Posen opened the meeting to the public for opinions.

Mr. Tinter, of 290 Schraalenburgh Road, was sworn in. He stated that the applicant improved the property a great deal and he went on to describe the previous condition of the subject property. He said that the improvements made all of the properties look nice now. Mr. Tinter said he had no objection to the application and he did not care if the fence was not in compliance. He stated that if the applicant has kids over and maybe a dog playing in the yard, they would need safety. Mr. Tinter elaborated and then said he needed a nice improvement on the property.

Rich Norton, of 4 Littlefield Court, was sworn in. He said that prior to Mr. Mordini moving in, he had fairly good privacy looking to the North and now that the trees and everything have been cut down, he has to look through and see the houses to the North. He said they are also subjected to looking at Mr. Mordini's boat.

Mr. Norton asked for clarification on whether their fence would be 4 ft. He said he had no objection to a 6 ft. fence because he and his family have lost their privacy and they hope the applicant would also put in landscaping to give them back their privacy.

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Sandra Rodriguez, wife of the applicant, was sworn in. She started to speak in her native language, and her husband was translating. He explained that his wife said they want to give privacy to both neighbors, they want people to use their yard, and they don't want children to be in accidents.

Since no one could understand Ms. Rodriguez, they couldn't respond, so she took her seat.

There being no one else to come forward, Mr. Posen closed the meeting to the public.

Mr. Posen noted that there was an application before the Board for two side yard 6 ft. fences, which needed to be discussed. Additionally, there was an application jointly for a 4 ft. fence located on the property line on Schraalenburgh Road.

Mr. Paquet noted that it had to be an open fence.

Mr. Tinter spoke out saying that he has seen many fences on Schraalenburgh Road and some other fences in the area.

Mr. Posen noted that in the fourteen years he has been on the Board, there hasn't been a new fence on Schraalenburgh Road. He pointed out that none of the property owners for those fences to which Mr. Tinter was referring were before the Board this evening.

Mr. Ehrenberg stated that he was part of the Board when the other application, had been decided and he dropped by that property today. He said it was a beautiful solution and something he would like to see repeated in this case. Mr. Ehrenberg said he would be happier with 4 ft. fences on the side yards.

Mr. Paquet said it would be difficult to break up the application into two votes and he pointed out that whatever occurred would affect both fences. Mr. Paquet said he agreed with Mr. Ehrenberg.

Mr. Panzella said he agreed with the both of them.

Mr. Abramson said that if the Board was inclined to have the fence moved back, he felt 18 ft. was a little much especially since the driveway was actually a grassy area in front of the property. He said it didn't exist in front of the other properties and it juts out into the roadway.

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Mr. Lester said they weren't talking about that much.

Mr. Paquet pointed out that the applicant had a huge piece of property.

Mr. Abramson said that the fence would be 18 ft. back and the plantings would be in front of it.

Mr. Posen asked the applicant to confirm that the plantings would be on both sides of the fence.

Mr. Abramson said they would be on both sides and they would also have nice landscaping.

There was discussion.

Mr. Abramson asked that the fence be set back on Schraalenburgh Road only 10 ft.

Mr. Posen said he had two thoughts. It might very well be that the bump out on Schraalenburgh Road is a town easement for future widening. He said he didn't think the issue should be where the bump out was but whether the town had jurisdiction over that property line.

Mr. Posen explained that Haworth has a Shade Tree Commission, which plants trees wherever that might be. He suggested that the applicant work with the town regarding the trees.

Mr. Abramson said the impact was going to be behind the fence. He said they would like to go back only 10 ft. in from the property line in the front and then have plantings.

Mr. Ehrenberg asked if they were going to put in junipers on Schraalenburgh Rd.

Mr. Lester asked if the old fence would be coming out.

Mr. Abramson said that it was removed.

Mr. Posen wanted to address the side fences since the Board did not have much discussion on them.

Mr. Roth stated that the application was for a 6 ft. open fence and that was generally consistent on side yards in town.

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Mr. Lester said that if the applicant had two front yards, they cannot have a 6 ft. fence.

Mr. Roth said he didn't have an issue having a 6 ft. fence or going to the 4 ft. fence.

Mr. Panzella asked if they had a 6 ft. fence on a front-yard property.

Mr. Posen said it was a front yard but it was a side-yard fence. He said the applicants were asking for two side yard fences at 6 ft. and a 4 ft. fence in the front yard on Schraalenburgh Road to be set back 10 ft. back from the property line on top of the berm.

There was discussion.

Mr. Paquet asked if there would be 5 ft. posts on the 4 ft. fences and he was told that there would be.

Mr. Abramson said that the Board's concern was how tall the fences would be and how many there would be.

Mr. Posen stated that they also needed to discuss the gate because it was on the drawing.

Mr. West noted that the applicant would have to apply for a permit in order to have a driveway put in.

Mr. Panzella said he had concern with the fence being setback only 10 ft. and he didn't think 18 ft. was too much. He said the Ordinance keeps Haworth with a very open look and he did not think 10 ft. was good. Mr. Panzella asked if they could compromise.

Mr. Paquet said he didn't feel 10 ft. was good either - he felt 18 ft. was better.

Mr. Ehrenberg said he was inclined to agree with them and the applicant should go 16 to 18 ft back and they should mitigate.

Mr. Panzella asked if the applicant would have to come back if they wished to amend their application.

Mr. Posen stated that they would not have to come back.

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Mr. Lester explained that if the application was turned down, they would have to come back.

Mr. Paquet said he wished to make a suggestion but he didn't want anyone thinking it would be strong arming.

Mr. Abramson spoke to Mr. Mordini. He said it seemed that there was support from the Board for an 18 ft. setback from the property line and there seemed to be resistance if they stayed at 10 ft., so it might be rejected. Mr. Abramson said this was his prognostication. He asked Mr. Mordini if he wished to consent to amending the application to a setback of 18 ft. in order to get an approval this evening.

Mr. Mordini told the Board that keeping it at 10 ft. from the 18 ft. requirement was not that much.

Mr. Posen stated that the Board was made up of volunteers from the community. The strongest thing they had was history and a set of rules, which they interpret. Mr. Posen explained why the other similar application was mentioned. He said there was a middle ground met in that case. Mr. Posen said that when there was a great idea that works, it could be repeated several times.

Mr. Abramson again spoke to Mr. Mordini. He said he had a sense of the Board's fairness since they felt a compromise was appropriate. Mr. Abramson said he did not get the feeling that the Board was being harsh.

Mr. Mordini asked again if he could go from an 18 ft. to 10 ft. setback.

Mr. Lester said they did not negotiate.

Ms. Rodriguez stood up and said that she pays taxes and there was no way she would go to 10 ft.

Mr. Mordini asked if that was the final offer.

There was a short discussion and Mr. Mordini was asked if he was staying at 10 ft. He responded that he was. He said his wife would not agree to reduce it.

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Mr. Posen entertained a motion on the application as presented.

Mr. Paquet moved to reject the application as presented.

Seconded by Mr. Ehrenberg.

Mr. Posen explained that a ~~Yes~~+vote was a vote to deny the application.

Upon roll call, the vote went as follows: Yes - Mr. Paquet, Mr. Ehrenberg, Mr. Panzella, and Mr. Posen; No - Mr. Lester, Mr. Roth, and Mr. Valdivia. Motion carried.

ZAMPETTI APPLICATION (continuation)

Mr. Posen reminded everyone that the original application had been for four variances.

Genaro Salierno appeared as an architect and expert witness on behalf of the applicant.

The new Plan was marked as Exhibit A-3.

Mr. Salierno stated that the Plan had a reduction to 108 sq. ft, which was less than 25% coverage.

Mr. West stated that the applicant had a non-conforming undersized lot. He explained that the Zoning Ordinance had a grandfather clause which permits an undersized lot or a lot with less than the required frontage. Mr. West noted that the applicant only requires variances for the building coverage and the rear-yard set-back.

Mr. Posen stated that the lot area and width they had discussed were a matter of fact and history. He said that the application was reduced to one variance for a rear-yard encroachment, which was shown in the left corner in blue on the Plan. Mr. Posen said that one of the existing conditions was eliminated and reduced the number of variances from 2 to 1.

Mr. Salierno said they were requesting a rear-yard setback requirement from 34 ft. to 27.5 ft. and it would only be about 7 ft. in one corner of the property.

Mr. Paquet noted that was absolutely what they had discussed.

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Mr. Ehrenberg said that the applicant had reduced the non-conformity to a bare minimum. He said the placement of the house relative to the lot gave them an unusual lot to work with.

Mr. Posen entertained a motion.

Mr. Ehrenberg moved to approve the amended application as submitted this evening.

Seconded by Mr. Paquet and upon roll call with the members who were eligible to vote on this matter, the vote went as follows: Mr. Ehrenberg, Mr. Paquet, Mr. Roth, Mr. Valdivia, and Mr. Posen; No - none. Motion carried.

COUNCIL REPORT

Councilman Rosenberg distributed documents relating to his report.

Stevens Place

Councilman Rosenberg stated that the town has applied for two grants where the town would receive \$149,000 in response to improving the Stevens Place area and they were ready to bid. He said that the second application for a grant was denied because they had to use the other grant money first. Therefore, it must be bid out by November of this year or the Borough would lose the money.

The Downtown Area

Councilman Rosenberg referred to the first drawing and said that it was a little more ambitious than the second. He elaborated and then said that these bids would go out at the end of September.

Councilman Rosenberg said that the area in the second drawing was not currently up for bid. He explained that the town was hoping to get additional money from PSE&G for more lighting.

Mr. Lester asked about the parking behind the commercial establishments and if the town was planning on making it all one lot.

Councilman Rosenberg said there was a Borough-owned piece of property back there and they were now talking about making it all one parking lot. He explained that this was one of the goals in the business improvement district.

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Mr. Lester asked if the business owners would be giving up their rights.

Councilman Rosenberg said that they would and once it was done, it would have to remain that way.

Mayor Smart said that in Phase 1, they would be trying to accomplish their goals which included aesthetics, lights, pedestrian friendliness, and enhanced parking. He then talked about what they were proposing for Phase 2. Mayor Smart explained that with the new plan, they could add twenty additional parking spaces in the back area.

There was discussion about the cost.

Mr. Panzella asked if there would be any liability issues with people parking on other businesses property.

There was additional discussion.

Mayor Smart stated that if business owners complied, the town would pave the rest of the area all the way down St. Nicholas Avenue.

Mr. Paquet asked if there had been much objection to the plan and not just the money.

Councilman Poosikian was in the audience. He said the numbers in the discussion did not include paving.

Mr. Paquet pointed out that when the Borough streets were resurfaced, they put in only one-half inch of paving and it should be two inches.

Mayor Smart stated that they changed the Borough Engineer two years ago and perhaps he made the change. He told the Board that the new engineer assigns someone to be on site while the job is being done so that must be what the paving company put in their bid.

Mr. Posen explained that when companies are bidding on the paving, they go by what is given to them the specs to follow.

