

Virtual Regular Meeting of the Haworth
Zoning Board of Adjustment on Jun 2,
2020, via Zoom.

PRESENT: Dennis Posen, Chairman
Richard Ehrenberg
Joseph Panzella
Michael Pilsbury
Lawrence Ross
Michael Pilsbury
Laura Weingartner
Alexander Vierheilg, Alternate 1
Jennifer Eby, Alternate 2

Alexander West, Board Attorney
Andrew Rosenberg, Council Liaison

ABSENT: Jeffrey Lester, Vice Chairman

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

Mr. Lester gave notice that he would not be able to attend this meeting because he was traveling.

Due notice of this meeting was given in accordance with the New Jersey Open Public Meetings Act.

In essence, the following transpired.

Mr. Posen welcomed Jennifer Eby to the Board. He noted that she had not yet been sworn in but she signed the Affidavit and gave her sworn allegiance to the office.

Mr. Posen also welcomed Alex Vierheilg to the Board.

Mr. Posen then announced that Laura Weingartner was moving out of state and would no longer be able to continue as a Board Member. He thanked her for serving on the Board, for attending the meetings and for her diligence.

Board members said they were sorry to see her leave and wished her the very best.

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ACCEPTANCE OF THE MINUTES

January 2020 Reorganization Meeting

The minutes of the January 2020 Reorganization Meeting were reviewed.

Mr. Ehrenberg moved to approve the minutes as presented, subject to the rights of absent members to correct statements directly attributed to them.

Seconded by Jennifer Eby and unanimously carried.

January 2020 Regular Meeting

The minutes of the January 2020 Regular Meeting were reviewed.

Mr. Ehrenberg moved to approve the minutes as presented, subject to the rights of absent members to correct statements directly attributed to them.

Seconded by Jennifer Eby and unanimously carried.

CORRESPONDENCE

Mr. Posen stated that there was no correspondence to review at this time.

ANNUAL SUMMARY OF ZONING BOARD CASES

Mr. Posen stated that every year during the first quarter, Mr. West prepares a summary of all cases heard before the Board of Adjustment from the previous year. He explained why it was done.

Mr. Posen stated that the Zoning Officer inspects the subject property when a permit is requested to see if the request is inconsistent with the Ordinance. He pointed out that in the past, there had been a lot of misinterpretations of the rules about installing fences. Mr. Posen elaborated.

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He recommended that a motion be made to accept the Report. Mr. Posen said that there would be no inherent issues or problems as had been interpreted last year. Nevertheless, there would be a discussion on fences following the motion.

Mr. Ehrenberg so moved.

Seconded by Mrs. Weingartner and upon roll call, the vote went as follows: Mr. Ehrenberg, Mrs. Weingartner, Mr. Panzella, Mr. Ross, Mr. Pilsbury, Mr. Vierheilig, and Mr. Posen; No – none. Motion carried.

Ms. Eby did not vote because she was a new member and not familiar with the document.

DISCUSSION ON THE FENCE ORDINANCE

Mr. Posen stated that he was not going to go back over the Fence Ordinance. He said that the historical language might have been unclear in the past. For example, a fence could not be installed in front of a house or in front of the entire property. Mr. Posen said it was now clarified. He explained that in a front yard of a corner lot, there are two front yards. He pointed out that the rulings of the Zoning Board have been consistent. That is, the vote was considered on whether the fence was in the front of the property and not only in front of the house. Some fences were grandfathered and some were being repaired. Mr. Posen explained that there has been an explosion of fences being installed without permits or hearings. It has reached the point where a few members of the Board started taking pictures of the houses with fences and they were forwarded for review. Mr. Posen said that there have been meetings with the Building Inspector and Mrs. Reiter about these issues.

Mr. Posen asked if they get enforcers and give penalties to get the attention of home owners and developers who were not obeying the Ordinance. He said he attempted to establish enforcement with ground rules. It had been agreed with the Mayor and Councilman Rosenberg that if anyone serving on the Board had an issue, Mr. Posen should be contacted and he would take it to the right source. He said that on a purely administrative level, now, if an issue came up about a property and there was concern, they should first get in touch with Councilman Rosenberg or to the Building Official. He said they knew of nine properties which were documented and brought to the attention of the Building Inspector. Mr. Posen said that this was a long-term problem which has been identified in Haworth.

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Mr. Posen said that they have politely asked that the Building Official enforce and not interpret the rules. He said he did not think his role was a judge or a Police Department and he was there to enforce the rules made by the Borough and that was the way the Zoning Board was supposed to work. He noted that he was a Zoning Officer and the property owners could apply in front of the Board. Mr. Posen stated that the Ordinance was appropriate and fair and it needed to be enforced. Therefore, he needed everyone's attention.

Mr. Posen then went over the list of properties with Fence Ordinance violations as well as the action taken, which was put together by the Building Official. He said this was a new subject for everyone on the Board, however, it was an old subject for many of the members who have been on the Board for years. He said that they have to present a set of guidelines to the Building Official, who is relatively new in Haworth.

Mr. Posen also pointed out that people have been taking down trees on their as well as other people's properties. He explained that when someone files a Site Plan Application, the trees are identified as to which can be taken down. If they erect a fence, they will be fined but once a tree is taken down, it is a done deal and this is a problem which has been identified by Council. Mr. Posen said they would have to figure out what was going on and get out information to residents. He said he has asked the Building Official to update him every month.

A suggestion was made to put information about the Fence Ordinance in the town's newsletter and also advise property owners that they cannot put up a fence without a permit.

Mr. Ehrenberg asked for enforcement with a penalty fine if the fence is left up.

Mr. West stated that if the property owners do not take the fence down and they do not come before the Board, then the Building Official has to issue a violation. He pointed out that the Zoning Board of Adjustment is a quasi-judicial board and it was not their job to find violations. Mr. West advised them that they might have to recuse themselves if the property owner comes before the Board for a variance. He suggested that if anyone had a concern about a fence, it should be sent to Councilman Rosenberg.

Councilman Rosenberg stated that getting a report from the Borough Official each month was a good thing, however, he did not think that a discussion each month on this topic was prudent.

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COUNCIL REPORT

Councilman Rosenberg noted that the Planning Board is required to review the Master Plan for changes on a regular basis. He said that at the Planning Board's last meeting it was decided that the topic of Open Space would be going into the Master Plan as a statement and it would be an additional tool.. Once it was approved it would be codified and then not maintaining open space would be a violation of the Master Plan giving something extra to be considered when someone wants to put up a fence.

Mr. Ehrenberg asked if "Grandfathering" could be eliminated.

Councilman Rosenberg responded that it was not a policy decision.

Mr. West, stated that the Borough Ordinance does have a pre-existing Ordinance which is a clause unto its self. He explained how the Grandfathering Clause works and how long property owners have to invoke it. Mr. West explained that the Building Official does not have the authority to o approve the property owners' requests on the claim that it is grandfathered. They would have to come before the Board. Mr. West said that it was up to the Zoning Board to approve it. Some of these requests could only be granted for the first year after the fence was erected.

Mr. Vierheilig asked why they needed to have these restrictions on fences. He said there seemed to be a lot of issues.

Mr. Posen explained that the Borough wants to have an open environment. He said that it had not been an issue for over 15 years – it was well understood, but it somehow got disregarded and people started doing things without Building Permits.

There was discussion about how much time the property owner had to get a permit after a non-conforming fence was installed.

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ADMINISTRATIVE

Mr. Posen said that he would update the Board's contact list and resend it to everyone.

- He also said he would resend a memo about the meetings continuing to be on the first Tuesday of every month at 7:30 p.m.

- Mr. Ross asked if there was a possibility of taking the required Land Use Classes on line.

Mr. Posen said he would get in touch with Mrs. Fay about the Fall semester classes.

There being no further business, Ms. Eby moved to adjourn.

Seconded by Mr. Ehrenberg and unanimously carried.

Respectfully submitted,

/s/

Dolores Fazio O'Dowd