

Regular meeting of the Haworth Zoning Board of Adjustment on May 7, 2019, at the Municipal Center.

PRESENT: Dennis Posen, Chairman
Richard Ehrenberg
Catharine Luby
Joseph Panzella
David Roth
Laura Weingartner, Alternate 1

Alexander West, Board Attorney
Andrew Rosenberg, Council Liaison

ABSENT Jeffrey Lester, Vice Chairman
John Paquet, Secretary/Treasurer

Mr. Posen called the meeting to order and upon roll call, the above Members were present. Mr. Panzella arrived a short time later.

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

In essence, the following transpired.

ACCEPTANCE OF THE MINUTES

The minutes of the April 2019 meeting were reviewed.

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

Seconded by Mrs. Weingartner and unanimously carried.

Regular meeting of the Haworth Zoning Board of Adjustment on May 7, 2019, at the Municipal Center.

CORRESPONDENCE

- Notice from the Bergen County Department of Planning advising that St. Gabriel's Church Site Plan Application has been filed.
- Notice to the Board that all members were required to take the Storm Water Management Course, which was available online.

Mr. Posen will find out how many times each member was required to take it since some have taken it already.

HORWITZ MEMORIALIZING RESOLUTION

The Horwitz Memorializing Resolution was reviewed.

Mr. Posen noted that that the Application had been denied.

It was then noted that the members in attendance and eligible to vote were: Mrs. Luby, Mr. Roth, Mrs. Weingartner, and Mr. Posen.

Mrs. Luby moved to approve the Memorializing Resolution.

Seconded by Mr. Roth and upon roll call, the vote went as follows: Yes - Mrs. Luby, Mr. Roth, Mrs. Weingartner, and Mr. Posen; No - none. Motion carried.

FERRARA & SONS CONSTRUCTION, LLC APPLICATION

Constantine Stamos, with an office in Rockleigh, New Jersey, appeared on behalf of the applicant.

Mr. Stamos stated that the applicant was Alfonso Ferrara, of Ferrara & Sons, LLC, of Old Tappan, New Jersey.

Mr. Stamos described the subject property located at 187 Pine Street. He stated that it was a single-family home, which met all set-back requirements. Mr. Stamos stated that the applicant wished to construct an 8 ft. wide deck and would require a 3 ft. setback variance. He said that everything else would be in compliance.

Regular meeting of the Haworth Zoning Board of Adjustment on May 7, 2019, at the Municipal Center.

Mr. Ferrara stated that he purchased the property 10 years ago and demolished the existing home to build one for himself. He said his work included renovation, construction and sales.

The following Exhibits were marked into evidence:

- A-1 Survey prepared by Christopher Lantelme and dated 10/10/18
- A-2 Site Plan prepared by Chris Blake and dated 1/15/19
- A-3 Photographs of the rear of the subject property
- A-4 Photographs of the rear of the subject property taken from the right side and showing the neighbor's house on the left
- A-5 Photographs of the rear of the subject property facing the neighbor's house towards the East at Madison Avenue

Mr. Ferrara described all of the photographs and then stated that they would install a fence and plant shrubs and would also like to have a usable deck..

Mr. Posen entertained questions from the Board.

In response to Mrs. Luby's question, Mr. Ferrara stated that the deck would be approximately 25 to 27 ft. long.

Mr. Posen commented that he didn't know if Mr. Blake was aware that the house could have been 12 ft. closer to Pine Street.

Mr. Ehrenberg asked about the existing Zoning Ordinance and the setback from the street. He also pointed out that the Survey did not indicate where the house was located and there were questions of clarity because one document shows a location of 25 ft. and another says 37.5 ft.

Mr. Ferrara stated that it was in the same location as the one from the house which had been torn down.

There was discussion from the Board and it was noted that if a house was designed with a floating sliding door, there was a presumption that it was going to have a deck. Further, the applicant was before the Board because the existing deck was only 5 ft. deep and there was an encumbrance of a fireplace, which projected out into the 5 ft. and a variance was being requested to extend this deck another 3 ft.

Regular meeting of the Haworth Zoning Board of Adjustment on May 7, 2019, at the Municipal Center.

Mr. Ferrara stated that miscalculations had been made as to the Haworth Zoning regulations.

Mr. Posen stated that a "Juliet" deck, such as this, was not a comfortable space. He elaborated.

Mr. West talked about some inconsistencies and Mr. Stamos stated that they were asking for a C-2 Variance.

He then asked Mr. Ferrara if the property would be used for himself or for a client.

Mr. Ferrara said that it would be for a client.

Mr. Stamos said there were benefits to the use of the property and it would not be affecting light or air and they didn't see any detriments.

Mr. West asked if anyone looked into what was required. He noted that this was a non-conforming lot and there was nothing indicating that they could build on one this size.

Mr. Stamos responded that it was not noted when it was filed.

Mr. Ferrara stated that the Building Official said it was ok and approved the permit for a one-family house.

Mr. Posen noted that Mr. Renaud was that Building Official and he was no longer working for the Borough. He advised the applicant that they would have to see the new official.

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

Mr. Alan Finkelstein, of 154 Madison Avenue, said he lived right across from where the proposed deck would be located and it would look into his living room. He wanted to know about the applicant's hardship that would be imposed and he also wanted to know about landscaping.

There was discussion about C-2 variances and Mr. Stamos explained that it did not address hardship. He said there would be no detriments but there would be benefits since there was an improved property and a residence. Mr. Stamos stated that they were open for discussion about shrubs, etc.

Regular meeting of the Haworth Zoning Board of Adjustment on May 7, 2019, at the Municipal Center.

Mr. Panzella arrived.

There was additional discussion relating to the deck and Mr. Ferrara said that it would be 10 ft. high. Shrubs such as arborvitae would be planted - they were 4 to 6 ft. high and grew approximately 3 ft. per year. Mr. Stamos said they would work with the neighbors.

When Mr. Finkelstein asked if there would be any other appendages on the deck, Mr. Ferrara answered that it would only have a railing. Then Mr. Finkelstein wanted to know about the design and asked if the Resolution could include stipulations that the deck could not be enclosed or have an awning.

Warren Master, of 153 Madison Avenue, asked why the applicant put up such a big house on a small lot. He stated that his property had been subdivided from that same lot and when it was being done, he felt that the town was very strict. Mr. Master said that his house was no where nearly as big as this one.

Mr. Stamos stated that he did not know the property had been subdivided. He referred to Exhibit A-5 and told Mr. Master that his home was 30 ft. from the property line.

Mr. Master responded that this Board had approved and granted him a permit to live there. He stated that his house was in compliance and without any variances.

Mr. Posen closed the meeting to the public for questions and asked the Board for their opinions.

Mrs. Luby asked for an explanation of the variances which the applicant was requesting.

Mr. West read the definition for C-2 variances, in which the benefits of the deviations substantially outweighed the detriments and would benefit the community and not just the property owners.

There were no other comments from the Board.

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

Regular meeting of the Haworth Zoning Board of Adjustment on May 7, 2019, at the Municipal Center.

Warren Master, of 153 Madison Avenue, was sworn in. He spoke in opposition of the application. Mr. Master stated that the rules and regulations were there for his protection and investment in the community. Mr. Master stated that the subject house was right on top of his, he already sees a big deck and it feels very close. He stated that the new deck would be right there and it would create a problem, so he did not want it to be any bigger than he could tolerate. Mr. Master commented that the other house was beautiful and this house had a little back yard. He said he was opposed to any variances being granted which would not protect his privacy and investments.

Mr. Stamos said they were in compliance and Mr. Master responded that the applicant should have thought about compliance without the deck.

Alan Finkelstein, of 154 Madison Avenue, was sworn in. He spoke in opposition of the application. Mr. Finkelstein said that experienced builders should have known better. He said he would have like to talk to the architect to find out why it was set up this way because now there would be more people looking at him in his living room. Mr. Finkelstein said he would be open to something lower.

Mr. Stamos pointed out that he lived across the street on Madison Avenue and Mr. Finkelstein responded that he was only about 25 ft. away.

Mr. Finkelstein asked how many people could use the deck at one time.

Mr. Stamos responded that it had a 40 ft. setback.

Eun Young Hung, of 191 Pine Street, was sworn in. She spoke in opposition of the application. Ms. Hung said that she lived on the same side as the subject property, there were buildings on both sides of her house and she would not have light with the deck. Ms. Hung said that she also wanted to keep her privacy but the deck would be too close to her living room.

Mr. Stamos responded that this deck was in the back over the garage. He asked if she was saying that she wanted privacy for her deck, and Ms. Hung said she did.

Mr. Ferrara commented about Mr. Master's earlier comment that the last house was beautiful. He said that the old house was a shack and the new house improved the neighborhood.

Mr. Posen stated that the house was in full conformance.

Mr. Ferrara stated that they also wanted privacy and the house was going to be sold.

Regular meeting of the Haworth Zoning Board of Adjustment on May 7, 2019, at the Municipal Center.

When Mrs. Luby asked why they would not put in a patio instead, Mr. Ferrara responded that they would have to walk down steps to get to it.

Mr. Posen noted that with a patio, impervious coverage would be 40%, and the way it was presently designed, it was 25%.

There were no further questions or comments.

Mr. Posen entertained a motion. He explained that a motion to approve would be to accept the 3 ft. variance. with any stipulations covering restrictions, including but not limited to never enclosing the deck, never making it a greenhouse, never having a retractable awning; and, that suggested landscaping of a given size and type would be a condition.

Mr. Posen then explained that a motion to deny would be a rejection of the 3 ft. setback variance. He said that the exit stairs did not fall under the same restrictions and they would also be there if they went down to a patio. Mr. Posen said that denial would be that the variance would not be betterment and not allowed.

Mr. Stamos stated that the applicant had been the property owner for 10 years, and he designed a beautiful home with a *de minimis* variance going on the 27 ft. deck. He said the building was set back more than 30 ft. Mr. Stamos then talked about the benefits and said they were for the use of the property owners, who would be residents of the town - it was not illegal or improper - and, it was minimal. Mr. Stamos said they were willing to have a fence and privacy shrubs, they would be willing to work with the neighbors as far as screening with reasonable conditions. Mr. Stamos said they believed there was no detriment or impairment to the Zoning Ordinance. He stated that other properties in the area were not in compliance but this house was in compliance with the exception of the 3 ft. variance.

There were no further comments from the Board.

Mr. Ehrenberg moved to approve the application subject to the restrictions and conditions set forth including that the deck remain open, unscreened, uncovered, etc., and the subject property would have screening to protect the privacy of the other properties.

Seconded by Mr. Roth.

It was noted that Mr. Panzella would not be able to vote since he did not hear the application from the beginning and in its entirety.

