

Virtual Regular Meeting of the Haworth
Zoning Board of Adjustment on May 4,
2021, via Zoom.

PRESENT: Jeffrey Lester, Vice Chairman
Richard Ehrenberg
Jennifer Eby, Alternate 1
Joseph Panzella
Michael Pilsbury
Lawrence Ross
Alexander Vierheilig
Lawrence Weiss, Alternate 2

Alexander West, Board Attorney
Andrew Rosenberg, Council Liaison

ABSENT: Dennis Posen, Chairman

In Mr. Posen's absence, Mr. Lester called the meeting to order, and upon roll call, the above Members were present.

Mr. Posen gave notice that he would be traveling and would not be able to attend this meeting.

Mr. Weiss was welcomed to the Board.

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 March Reorganization and Regular meetings were reviewed.

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

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Seconded by Mr. Ross and unanimously carried.

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

Seconded by Mr. Ehrenberg and unanimously carried/

CORRESPONDENCE

There was no correspondence available to discuss at this time.

Edward Greene's hearing had started; however, Mr. Dexter was having technical problems. It was decided to hear Mr. Faygin's application and then go back to Mr. Greene's application.

DAVID FEYGIN APPLICATION

Mr. West advised the applicant that the notices were not in order and they did not have an Affidavit.

Mr. Feygin stated that the Notice was published on April 22, 2021 but they did not send a receipt.

Mr. West noted that any decision of the Board would depend upon proof.

Mr. Lester commented that everything the Board was going to do would be a waste.

Jay Katz, of Forest Avenue, Paramus New Jersey, appeared on behalf of Mr. Feygin.

David Feygin, of 115 Maple Street, was sworn in and, in essence, stated the following.

Mr. Feygin said that the plan was to get settled in over a couple of months and now he wanted to have a fun and safe environment at home. Mr. Feygin said he needed a variance for 4.69% for the pool and patio. He said he spoke with his attorney and engineer to get an efficient plan.

Mr. Katz said that it would be next to the house and this would be over on the lot coverage.

Mr. Feygin was asked if they had an alternate plan and if he objected to them. He said that with a 915 sq. ft. overage, if they eliminated that Plan, they would have to eliminate the patio.

Mr. Ehrenberg asked if they looked at plans with other types of patios containing cracks and also asked if there were already seepage pits in place.

Mr. Katz stated that the design of the pool was based on it for the family's comfort and enjoyment of the patio. He asked if there were paving materials available that were not impervious.

Mr. Lester stated that they have been presented with similar situations where pavers were not impervious.

Mr. Panzella suggested grassy pavers.

It was noted that there was a case where the Board granted a variance for an applicant who put in a large seepage pit.

Mr. Katz said that they could do that.

There was discussion on whether or not the pool itself was considered impervious. Someone said that it was impervious but others commented that it was not up to the Board to decide.

Mr. Lester explained that the Board was constrained by the Municipal Ordinance and they also needed to consider the shape and topography of the subject property.

Mr. Ehrenberg noted that this was a sizeable variance.

Mr. West stated that the applicant was saying that the variance was minor.

Mr. Ehrenberg then noted that the Board had decided that the pool would be considered an impervious coverage, to which Mr. Lester responded that they had to rely on the Building Official's determination.

Mr. Katz said he thought his engineer interpreted that it was impervious.

Mr. Feygin was asked if they had looked at other types of pavers and he said that he could see where there could be some adjustments on the south side. He said that there seems to be 12 ft. which could be adjusted along with another couple of feet on the other side. He elaborated.

Mr. Vierheilg asked if they tried to mitigate the the seepage problem with the patio and pool.

Mr. Katz responded that the engineer would have to look at their approach.

There was discussion.

Mr. Ross said that the seepage pit was not already installed. He then asked about putting in French drains

Councilman Rosenberg reviewed the Land Use Code and gave definition of a swimming pool.

Mr. West stated that he has been looking for the same information and found that a pool is not considered pavement. He read the information.

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

Since there was no one to come forward, the meeting was closed to the public for questions.

There was discussion among the Board members.

It was suggest that the applicant come back before the Board with information on the seepage tank and receipts for the notices.

Mr. Ehrenberg said he thought it might be wise to come back before the Board with another drawing.

Mr. Lester asked the applicant if he was willing to carry this matter over to the next meeting and come back with an amended plan.

Mr. Feygin said he was hoping to walk away with a conditional approval but he was willing to come back in and have new plans for the coverage and reduce the impervious area. He said he would work with his engineer. Mr. Feygin elaborated. He said he was waiting to recreate a new plan to make it more modest.

Mr. Lester asked if Mr. Feygin if he was asking the Board to adjourn to the next meeting and come back with modern Plans. He said they needed specificity. Mr. Lester wanted to confirm if they were asking the Board to adjourn and to allow them to come back.

Mr. Katz asked if they were looking for a smaller patio or something more specific.

Mr. Lester responded that they were looking for a reduction in impervious coverage or if the run off could be mitigated.

Mr. Pilsbury said that they could cut it down from 40 ft. to 36 ft.

Mr. Lester said that they would have to have the creative ones work on it. He said they felt it would be wise for the applicant to adjourn and come back with new Plans.

Mr. West said they would not have to re--notice.

Mr. Feygin agreed to extend time.

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EDWARD GREENE, 28 EAST VIEW TERRACE APPLICATION

Bruce Dexter, of Hackensack, New Jersey appeared on behalf of Mr. Green.

Edward Green, the property owner, who has an office at 70 Old Tappan Road, Old Tappan, New Jersey, was sworn in.

Steven Koestner, a Professional Engineer, with an office in Hackensack, New Jersey was sworn in.

David Karlebash, a Professional Engineer, located at 96 Linwood Plaza, Ft. Lee, New Jersey, was sworn in.

Mr. West asked for the notices which were submitted by the applicant.

The following evidence was marked into evidence:

- A-1 Application for Variance and Environmental Report
- A-2 Photographs of the premises pre and post construction
- A-3 Collective group of photographs of the building.

Mr. Dexter said that there were no other documents.

Mr. Green stated that he had owned the property for two years. Richard Rotonde, who had been married to his sister, Sarah, had resided in the house. They had also been doing renovations and construction on the subject property. They have moved out and Mr. Greene now has a buyer for the property.

He said that he had applied for a Certificate of Occupancy and, as a result, learned that a lot of coverage problems created a condition, which required a variance on the subject property because the impervious coverage was 46.6% and the maximum was 40%.

Mr. Greene's sister, Sarah Manus, of Old Tappan Road, Old Tappan New Jersey, was sworn in.

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Upon questioning by Mr. Dexter, Ms. Manus stated that she and her former spouse, Mr. Rotonde, made renovations on the interior of the house. She explained. Ms. Manus said that they made a one-story addition for the master bedroom on the left side, a small pool in the yard, and installed a 1000- gallon seepage tank. Ms. Maras said that there was an attached two-bay garage located to the right side of the house towards the rear of the property line, and there was a paved area which gave access to the driveway. She said that they did not do anything to the garage; they only reroofed and painted it. Ms. Manus stated that they took out the blacktop and added a horseshoe - shaped driveway. The pebbles, stone, and gravel replaced the blacktop and it was pervious. She said that they could not back out of the driveway which was there, the roadway was narrow, plus golfers rode out from the 18th hole of the White Beeches Country Club. She elaborated.

Mr. Koestner was introduced. He went over his education, background, license, and experience as a professional engineer and land surveyor.

The Board accepted him as an expert in his fields.

Mr. Koestner said he visited the site in January and returned in March to check some items requested by the Building Official. He then amended and prepared another survey. A copy of the survey dated 1/4/21 is attached to the Variance Application.

Mr. Koestner went over a breakdown on various comparisons on the lot. He said that they had 43.67% of impervious surface and were allowed 40%. He said that they did not consider the pool so it goes towards the amount that is being requested. Mr. Koestner said that the driveway coverage made up of gravel is considered impervious but can absorb waters from a storm. He asked the Board to consider that.

Mr. Koestner said that the survey indicates 12,000 sq. ft. and a minimum of 15,000 sq. ft. is required – they are missing 25 sq. ft. on Sylvan Place. The lot is a non-conforming, undersized lot.

Mr. Karlebash was introduced and went over his education, background, license, and experience. He was accepted as an expert in his field by the Board.

Mr. Karlebash said he reviewed the Zoning Ordinance, Master Plan, Application, Plat Plan, and photographs. He said that the condition of the lot was undersized, it has an undersized rear area, and is a corner lot on East View Terrace and Sylvan Place. Mr. Karlebash said that it was a single-family house, the neighborhood was surrounded by the White Beeches Country Club property, which goes from East View Terrace to

West View Terrace and there is no construction proposed; it is located in a residential zone with a 5000 sq. ft. lot and they were requesting variances for pavement and coverage. They are C-1 or C-2 variances but the New Jersey Land Use Law Manual indicates that it was a C-1 variance.

Mr. Karlebash stated that the driveway had most of the paved coverage with 576 sq. ft. and had adequate access; and the garage was re-roofed. He said that the applicants decided to maintain the structure and it resulted in undue hardship. He said that it was at 23.6% now and 25% is permitted.

Mr. Karlebash said that the dipping pool was small at 375 sq. ft. and the patio was not excessive. They would be aesthetic and covered by a stone wall. He said that there would not be a substantial detriment to the public good. Mr. Karlebash said that they have a gravel-paved driveway. He said that the house is completely renovated and improved the value of the neighborhood. Mr. Karlebash then showed photographs of the house and driveway.

Brian Turoff, of 5 East View Terrace, Demarest, New Jersey, was sworn in and is the contract purchaser for 28 East View Terrace. He said that he would like to move in as soon as possible and said he was ok with the house in its present condition. Mr. Turoff said that the driveway was very important to them.

Mr. Greene said that the pool and driveway were done at the same time and there was a permit. He was asked about how the impervious issues were addressed at that time.

Councilman Rosenberg said that if you looked at the letter, you would understand that what had been built was greater than what was permitted. Yet it was built but not approved as stated in the denial letter and it seemed that it was an extension of a preexisting condition.

Mr. Lester said that while the applicant may be couched, that is not the issue for permitting it.

It was noted that Mr. Rotonde applied for this application and it was on his and his wife's behalf for Mr. Greene. Mr. Rotonde must have been retained to do the work.

The applicant said it was not correct – Mr. Rotonde was performing extensive renovation work even though he did not own the property.

Mr. Lester asked how the current condition of the premises was different from the Plans.

Mr. Dexter said it was the driveway from the garage to the street and by way of the circular driveway.

Ms. Eby asked if they thought it was fair and wanted to know how the present structure differed from that which was applied.

Mr. Dexter said that there was a circular driveway and that was why it has gone before the Board. He said it was difficult for him to say if it was for a pool and patio.

Councilman Rosenberg said that it was expanded..

Mr. Lester stated that they made improvements on the property which were illegal. He asked for the square footage of the circular driveway.

Mr. Koestner said it was 420 sq. ft. plus additional footage.

There was discussion and then he said that they would be dealing with construction which was more than what they should have done.

Mr. Ehrenberg asked about the conformance of that driveway

Messrs. Ross, Panzella and Ehrenberg were in discussion about the circular driveway and they said it should be as stated by Ms. Manus. Mr. Ehrenberg said that it should be a straight driveway like the others.

Mr. Lester opened the meeting to the public.

Jim Riede, of 534 Sunset Avenue – Mr. Greene's neighbor to the north, was sworn in. He said that he had been living in his house for 20 years now he had a breakage of vision was never there before. Mr. Riede said that there are no problems with golfers crossing the street and there are certain things he does not understand. He said that they raised the roof without a variance.

Mr. Lester said that one can customize the property along as that conforms. The height cannot exceed the maximum; the footprint. He said that when this was done, the Building Official investigated and said it was within the Ordinance. Mr. Lester said that all of the Ordinance requirements had been met except for the ones which they were discussing.

Debora Riede, of 534 Sunset Avenue, was sworn in. She said that she was concerned that there had been construction made to the property that has diminished the quality of the historic area of their town. She said that two trees, which provided shade were cut down because of the digging out for the circular driveway. Mrs. Riede said she thought there was pavement under the gravel and she noted that there was a huge flooding issue because they were in a very low area.

Mr. Dexter stated that there was dirt under the gravel. He said he felt they were proving the hardship of the area and the hardship was to maintain a 20 X 64 ft. driveway in order to preserve and additional garage.

There was a question about the conservation preservation and Mr. Ross said it had to do with the circular driveway.

Mr. Karlebach said that 15% was for the driveway and the circular drive. He said he felt it would be poor planning if there was no linkage to the driveway.

Mr. Lester pointed out that they were not supposed to come up with solutions. He said that the Board does not have the ability to impose.

Mr. Karlebach said he thought that was what had been planned. The linkage has to be preserved.

Mr. Lester asked the Board for their comments.

Mr. West said that it was not whether or not this was for the issue of coverage or whether the Building official denied it for the CO.

There was discussion about drainage.

Mr. Dexter pointed out that they were dealing with an undersized lot, which was 20% less.

There was additional discussion.

Mr. Lester noted that it conformed before the construction. He said the lot was narrow and lacked 25 X125 ft. – he said it did not comply.

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Mr. Dexter said he felt the Board should consider everything. He said that they should be able to use the property in a reasonable way. It was desirable even though it was too small. He said he did not think the Board should make it a problem. Mr. Dexter said that he submits that the applicant's request was reasonable and the Board should feel the same way.

Mr. Riede said he felt that they were going to build whatever they were going to build and deal with the consequences later, such as the driveway, trees, and a lot of other stuff. He said that they were his issues.

Mr. Lester said that they should probably take out the circular driveway.

Mr. Dexter said he spoke with Mr. Turoff and he said he did not want to come back with revised plans.

Mr. Turoff told Mr. and Mrs. Riede that he hoped they could be neighbors. He said that if he loved this house, he would hope that the result of what was existing there now did not impact his neighbors. Mr. Turoff asked if they would consider this if part of the goal did not create environmental problems. He felt that would be an understandable. He felt that he would be arriving at the same destination. He said that the driveway was rocks and dirt and he was asking this Board to act in a way that is possible. Mr. Turoff said he would like to move forward in a way that was practical.

There being no other comments or questions, Mr. Lester entertained a motion.

Mr. Ross moved to deny the application.

Seconded by Mr. Ehrenberg.

Discussion: a question was asked if the work could be done in such a way that we could suggest how to do allow for a walk from the driveway.

Mr. West said that it may be a construction decision and they can back this by discussing it with the Building Official to find a way to conform.

Mr. Lester said that maybe they could grant the application subject to whatever and create something from the steps to the driveway.

There was discussion on how to deal with the motion.

Mr. Ross said that he would be happy to amend the motion on condition of replacing the circular driveway.

Mr. Ross so moved.

Seconded by Mr. Ehrenberg.

Mr. Dexter asked if they wanted to suggest something to make it more specific, for example 2 ½ ft., by 30 inches.

He was told that had to be decided by the applicant.

Mr. Lester had a discussion about cutting down all coverage. He pointed out that they could adjourn this meeting and carry it.

Mr. Dexter said that they might be interested in that suggestion.

Mr. Turoff said that they may not be interested in going forward. He said that the conservation may turn into something in which they may not be interested. He elaborated. Mr. Turoff said that they were constrained by the Municipal Ordinance.

Mr. Lester explained that if this hearing was adjourned, they could discuss how wide it would be made and then return.

Mr. Pilsbury said that by adjourning they might be able to find a way to mitigate the problems.

Mr. Lester again suggested adjourning and come back with same application and modified plans. He asked if they would like to have the matter carried over to next month.

Mr. Dexter said that they agreed to extend time.

Mr. Riede said that they did not have a problem with the circular driveway. They do not want this to be a deal breaker.

Councilman Rosenberg stated that he would have the Building Official attend the next meeting.

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COUNCIL REPORT

Councilman Rosenberg didn't have anything to report this evening.

There being no further business this evening, Mr. Ehrenberg moved to adjourn.

Seconded by Mr. Pilsbury and unanimously carried.

Respectfully submitted,

/s/

Dolores Fazio O'Dowd