

Regular meeting of the Haworth Zoning Board of Adjustment on February 3, 2015, at the Municipal Center.

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

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.

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

Mr. Posen welcomed Laura Weingardner as a second alternate member of the Board.

ACCEPTANCE OF THE MINUTES

The minutes of the January meetings were reviewed.

Reorganization Meeting

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

Seconded by Mr. Panzella and unanimously carried.

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Regular Meeting

Mr. Posen noted that the minutes of the Regular Meeting had not been sent out to everyone on the Board so he read his out loud.

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

Seconded by Mr. Panzella and unanimously carried.

CORRESPONDENCE

- Mr. Posen stated that the only correspondence to be reviewed related to the Latte Application, which was before the Board this evening.

ADMINISTRATIVE

Mr. Posen announced that there were three applications on the agenda for this evening and he did not know how much time each application would take. Nevertheless, the meeting would close at 11 p.m. and none of the cases would start after 10 p.m.

LATTE APPLICATION

Mrs. Luby recused herself because she had business dealings with Mr. Latte.

Mr. West announced that everything appeared to be in order. He asked when the property was purchased and Mr. Watkins stated that it was prior to 2002.

David Watkins, with offices in Closter, New Jersey, appeared on behalf of the applicant.

In essence, the following testimony was given.

Mr. Watkins stated that the applicant wished to install an in-ground pool.

Michael Hubschman, an engineer and planner, with offices in Bergenfield, NJ, was presented as an expert witness.

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It was noted that Mr. Hubschman has appeared before the Board many times before and he was accepted as an expert witness.

The Site Plan, dated May 30, 2014, was marked into evidence as exhibit A-1.

Mr. Watkins made an opening statement. He said that the subject property was a corner lot located at 207 Haworth Drive. They were requesting relief with a C1/C2 variance.

Mr. Hubschman stated that they were requesting a C1 variance. He said that the side property was owned by the municipality so there would not be any new construction on Harland Avenue or near the country club. Mr. Hubschman said that the placement of the proposed pool was exactly where it should be. He proceeded to describe the property.

Mr. Hubschman stated that if someone drove by, the 18 x 30' pool and small patio would be facing west so he felt there would be no impact. He said that, technically, they were asking for a variance to have a pool in the front yard. Mr. Hubschman said that if the pool was located in the rear yard, they would not need a variance but he felt that where it was proposed made a lot more sense.

A Google Aerial Map of the neighborhood was marked as Exhibit A-2.

Mr. Hubschman referred to the municipal-owned land. He said that having the pool in the rear yard might have impact on Haworth Avenue and Haworth Drive as well as an impact with light and open space. Mr. Hubschman said there were environmental restrictions with wetlands and he was of the opinion that Harland Avenue would never be considered wetlands. He said that there were new regulations but they would be all right.

Mr. Hubschman stated that the applicant's hardship was how the house was set in the front yard. He said that they also needed a variance for pavement coverage. Mr. Hubschman stated that in his professional opinion, this was a better location because it would be at a lower level and it would not be visible from the street, and everything would drain away from the property.

Mr. Hubschman said they needed a variance for the pool because it would be located in the front yard and accessory structures are, technically, not allowed. He said that Mr. Kraus's letter stated that 10 ft. were required between the pool and the house. Mr. Hubschman said they could delete the walk on that side. He pointed out that it could be a safety issue and there wasn't any code relating to it, so he felt that 5 ft. was adequate.

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Mr. Hubschman said that there were three (3) air conditioning systems which separated it from the house. From a planning perspective, he did not see any detriment and felt that the benefits outweighed the detriments.

Mr. Posen stated that they had to focus on the technical questions on the application before they discussed the merits.

Mr. Lester pointed out that the pool needed to be surrounded by a fence which would also be located in a front yard.

Mr. Hubschman said that, technically, it would be required.

Mr. Posen asked Messrs. Watkins and Hubschman if they were aware of the applicants' Planning Board application. He noted that there were many options available as to where they could have built and located the house.

Mr. Watkins referred to the Plan dated 2001 and noted that there wasn't any pool indicated.

Mr. Posen asked if the problem could be resolved by eliminating the pathway to the generator.

Mr. Hubschman said that it was 5 x 7 ft.

Mr. Posen said that the pool could be located in the rear yard and it could only be 10 ft. wide by 50 ft. long. He said he was bringing that up because there were many options available.

Mr. West asked if that was the Latte's original set-up plan and Mr. Hubschman said that it was.

Mr. Ehrenberg asked in what way was this application different from the last application requesting a variance for the pool.

Mr. Lester asked if there was any attempt to contact the Borough to ask if they could vacate the street. He then pointed out that they were talking about the use of a front yard. Mr. Lester stated that the proposed area was deemed a front yard and they could not have an accessory structure in a front yard. He noted that that the pool would require a fence and a fence could not be located in a front yard. Mr. Lester stated that Mr. Hubschman was calling it a technicality but by definition, it was, in fact, a front yard.

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Mr. Watkins asked if the Board wanted them to pursue contacting the municipality.

Mr. West stated that the Borough owned a significant amount of land behind the subject property. He asked if the applicant has sought out asking the Borough to sell land to them.

Mr. Watkins said that they have not contacted the Borough, but they can do so.

Mr. Paquet pointed out that the side yard had another 20 ft. which could give them what they needed.

Mr. Posen said that on the subject of wetlands delineation, they are being upgraded. He said that another house had also been built on Harland Avenue. Mr. Posen said that there were many opportunities in the mitigation of wetlands to swap properties. He said that he was not suggesting it and he did not have black and white answer.

Mr. Hubschman stated that they could no longer swap wetlands -- there were no swapping programs any longer. They would only allow a small amount of land.

Mr. Watkins said they were prepared to look into speaking with the Borough and asked that the Board approve the application subject to getting additional property. Otherwise, it would be economically prohibitive.

Mr. Lester stated that he was concerned about doing this since they did not know if the applicant could have the street vacated or acquire land in the rear. He pointed out that there was a potential for eliminating the need for some of the variances and there would not be any front yard issues.

Mr. Watkins said he did not have a problem approaching the Mayor and Council. He said there might be an issue if they attempted to vacate.

Mr. West noted that there was a 30 ft. "Do Not Disturb" area.

Mr. Lester pointed out that they could get an extra 30 ft. on the side.

Mr. Posen stated that there was Borough-owned land and there was no intent to disturb this area.

Mr. Watkins said he thought that there might have been an analysis when the town did their COAH analysis. He said he had no objection to approaching the Borough.

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Mr. Posen asked Mr. West if he had any comments.

Mr. West stated that Mr. Hubschman gave a presentation absent of soil movement approval.

Mr. Watkins said he had no objection unless the Board had issue with it.

Mr. Posen stated that the Board had now heard the case but the variances needed to be clearly summarized.

Mr. Hubschman said that they needed variances for the following:

- 15% more impervious surface was required.

Mr. Posen responded that they could make that go away.

- The accessory structure would have only 5 ft. next to it and 10 ft. was required.
- And, the lot depth required was 37 ½ ft and they had only 33.9 ft.

Mr. West noted that they also required variances for an accessory structure as well as a variance for fence in the front yard, so that would be five (5) variances.

Mr. Posen said he would be curious to know about the setback and if there was a no-disturbance buffer for 30 ft. and whether or not the landscape was included.

Mr. Panzella asked about drainage. He wanted to know if the drainage chamber was sufficient.

Mr. Hubschman said that it was. He stated that there were two (2) seepage pits on the side.

Mr. Posen asked the Board if they were clear with which variances were required. He then talked about how the applicant could work towards not needing some of them. Mr. Posen said that the question they were moving towards would be an open inquiry to the Borough on obtaining the eastern property and how much property they would need. He told the applicant that they could rotate the pool and make that variance disappear. Mr. Posen stated that they could also look into having the street vacated.

Mr. Watkins said that he would exhaust both avenues.

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Mr. Posen stated that they would have to come back before the Board.

Mr. Watkins said that he did not know how long it would take. He extended time to March 3, 2015 and requested that no further notice to the public be required.

Mr. West granted Mr. Watkins's request.

Mr. Posen called a short recess.

Mr. Posen reopened the meeting to the public.

ADMINISTRATIVE

- Mr. Posen noted that there no longer was any public in attendance. Councilman Rosenberg checked to see if the applicants for the other two cases were in the lobby but they could not be found. Therefore, their applications could not be heard this evening.
- Mr. Posen announced that Mr. Hakim's term ended at the end of 2014.

COUNCIL REPORT

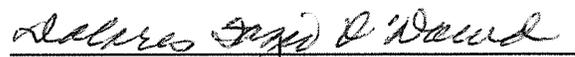
Councilman Rosenberg reported on the following:

- Mr. Statile has been appointed as the new Borough Planner.
- The Zoning Board's budget request has been submitted.

There being no further cases before the Board or any further business this evening, Mr. Ehrenberg moved to adjourn.

Seconded by Mr. Lester and unanimously carried.

Respectfully submitted,


Dolores Fazio O'Dowd