

**MANALAPAN ZONING BOARD OF ADJUSTMENT
MINUTES OF THE REGULAR MEETING
Thursday, February 21, 2019
TOWNSHIP OF MANALAPAN – Courtroom
Manalapan, NJ 07726**

The meeting was called to order with the reading of the Open Public Meetings by Chairman Stephen Leviton at 7:30 PM followed by the salute to the flag.

Roll Call: Janice Moench

In attendance at the meeting: Mollie Kamen, Terry Rosenthal, Larry Cooper, Eric Nelson, Eliot Lilien, Mary Anne Byan, David Schertz, Robert Gregowicz, Stephen Leviton

Absent from the meeting: Adam Weiss

Also present: John Miller, Esq., Zoning Board Attorney
Janice Moench, Recording Secretary
Nancy DeFalco, Zoning Board Officer

MINUTES:

No Minutes were offered

RESOLUTIONS:

A Motion was made by Mr. Cooper, Seconded by Mr. Schertz to approve the Resolution of memorialization of denial for Application **ZBE1806 ~Cenia Beltre**

Yes: Cooper, Schertz

No: None

Abstain: None

Absent: Weiss

Not Eligible: Kamen, Rosenthal, Nelson, Lilien, Byan, Gregowicz, Leviton

A Motion was made by Mr. Rosenthal, Seconded by Ms. Byan to approve the Resolution of memorialization for Application **ZBE1825 ~ Joseph and Melina Dani**

Yes: Kamen, Rosenthal, Nelson, Byan, Schertz, Leviton

No: None

Abstain: None

Absent: Weiss

Not Eligible: Cooper, Lilien, Gregowicz

PUBLIC HEARINGS:

Application No. ZBE1906

Applicant: Laurin & Jonathan LaLima

Proposal: Ratify existing retaining wall; proposed home addition

Request: Bulk variance

Location: 700 Silverleaf Way

Block/Lot: 1203/24

Zone: RE

Mr. Jonathan LaLima and his wife Laurin LaLima were both present and sworn in by Board Attorney, John Miller, Esq. Mr. LaLima explained to the Board he and his wife closed on the home February 15, 2019. The home was purchased "as-is" in a short sale. In the process they were advised when trying to close out the Certificate of Occupancy there was an existing retaining wall behind the pool that was not in compliance. The retaining wall being 44 inches in height encroached into the rear setback. There is approximately one foot or so remaining behind the retaining wall. Directly behind the property is open land, The Manalapan Preserve.

Mr. LaLima further explained the proposed addition to the home on the right side of the home. The addition would be approximately 15 feet in width and 26 feet in depth. Mr. LaLima explained the right side of the home was the only area they could build the addition. The property is diagonal in shape and zoned for and RE. The zoning has changed since the home was built leaving less room for setbacks.

Ms. LaLima explained the home is located on a cul-de-a-sac and on an angle which is the reason for the encroachment.

Chair Leviton asked the applicants to provide testimony regarding the pool filter which was also included on the application.

Mr. LaLima explained the previous owners submitted the permits for the pool and pool equipment. The pool filter is not in compliance with the 10-foot setback. The equipment is built into the pool area on the retaining wall in the rear of the property. There is a tree line fence on the top of the wall.

Mr. Cooper asked the applicants if they were notified of the issues on the property prior to closing.

Mr. LaLima explained he was made aware of the retaining wall encroachment when he went for the Certificate of Occupancy. The owners of the home were not in the financial position to rectify the wall due to the nature of the short sale. Therefore, the owners were unable to remediate and close out the Certificate of Occupancy permit.

Mr. Cooper asked the applicants if they had inquired about permits to the owners of the home. Mr. LaLima explained the prior owners advised the pool permits were closed out. In the end the applicants had to take on the responsibility.

Mr. Schertz asked why the retaining wall was built. Mr. LaLima explained the retaining wall is for grading purposes where the pool is built. The hot tub is above the pool and there is an incline where wall is built. Aesthetically the wall is pleasing.

Ms. Byan asked if the wall was 3 feet in height would it be in compliance. Ms. DeFalco explained the wall would be conforming if it were 3 feet in height.

Ms. DeFalco explained to the applicants the fence is slightly over the property line and would need to be brought in. The applicants explained they were not made aware of that.

Chair Leviton explained the fence is not under consideration for the Zoning Board being it is not located on the property. Ms. DeFalco and the applicants will work out the fence location.

Ms. DeFalco explained to the Board members when the development was proposed before the Planning Board it was considered to be "a cluster" being the lot size was over 20 acres. The development was built to R20 standards. This allowed 15-foot side yard setbacks, 60 feet from the front and 50 from the rear.

Detached structures typically are 15 feet from the side yard and 10 feet from the rear. This development is currently in an RE zone and must adhere to the current zoning. In the RE zone detached structures require 30 feet from the side yard and 100 feet from the front yard. The properties in the RE zone are typically 2 acre lots. The pool accessories are considered as a detached structure. The pad for the filter on this property does not meet the setback requirements. The pool itself is conforming because pools have their own setbacks; 10 feet from rear and side yard. There is small portion of concrete around the pool that is less than 10 feet.

Mr. Cooper asked the length of the wall. Mr. LaLima was not sure of the exact measurement of the wall but did defer to the survey.

Mr. LaLima explained the addition they were proposing was an option Toll Brothers offered when the homes were originally built. The previous owners did not opt for the conservatory addition when building the home. The applicant was looking to add extra space for their children.

Mr. Nelson confirmed with the applicants the proposed 15-foot addition would create a side setback of 6 feet. Mr. LaLima explained the property angles so in the front of the addition the side setback would be at 10 feet and at the rear portion of the addition the side setback would be 6 feet.

Mr. Gregowicz asked if the home was built with the conservatory option at time of construction, would the home be in conformance?

Ms. DeFalco explained if the original owner wanted the conservatory option they would have had to change the layout of the home at the time of construction.

Mr. Cooper asked what the current side setback is for the addition. Ms. DeFalco explained the RE Zone is 30 feet. Mr. Cooper asked the applicants if they considered putting the addition in a different area of the home. Mr. LaLima explained the left side of the home has the garage. In the rear of the home the addition would infringe on the pool area.

Mr. Nelson asked what the additional space would be used for. Mr. LaLima explained the space would be used as a play area for the kids. Mr. Nelson asked if the home had basement. Mr. LaLima said the house has a basement.

In summary, Mr. Miller explained with regard to the retaining wall the height is 44 inches. The rear setback is 50 feet for the zone and 1 foot exists. With regards to the pool filter there is a 50-foot setback requirement and 8 feet exists. There is a 30-foot side setback requirement and 16 feet exists. For the proposed addition there is a 100-foot front setback requirement and 70 feet is proposed. There is a 30-foot side yard setback requirement and 6 feet is proposed. There is a 10-foot rear and side setback requirement for the pool, and currently a portion of the concrete is at 5 feet. There is a section of the rear fence that needs to be moved within the subject property.

Chair Leviton opened the meeting to the public for comment or questions on the application. Seeing there were none, Chair Leviton closed public

A Motion of Approval for Application ZBE1906 was made by Ms. Kamen and Seconded by Ms. Byan

Yes: Kamen, Rosenthal, Lilien, Byan, Leviton
No: Cooper, Nelson
Abstain: None
Absent: Weiss
Not Eligible: Schertz, Gregowicz

Chair Leviton opened the meeting to the public for comment or questions. Seeing there were none, Chair Leviton closed public.

ADJOURNMENT:

A Motion was offered by Mr. Cooper and agreed by all to adjourn the meeting at 8:10 PM

Respectfully Submitted,

Janice Moench
Recording Secretary

RECORDED COMPACT DISCS OF THE ZONING BOARD OF ADJUSTMENT ARE AVAILABLE FOR REVIEW, IN THE PLANNING/ZONING BOARD OFFICE BY APPOINTMENT.