

MANALAPAN ZONING BOARD OF ADJUSTMENT
MINUTES OF THE REGULAR MEETING
Thursday, June 3, 2021
TOWNSHIP OF MANALAPAN
Manalapan, NJ 07726

PUBLIC MEETING~ HD OFFICE SUITES

DUE COVID-19, IN ACCORDANCE WITH GOVERNOR MURPHY'S EXECUTIVE ORDER
NO. 103 & 107, THE PUBLIC WAS PERMITTED TO PARTICIPATE IN THIS MEETING
VIA HD OFFICE SUITES

Open Public Meetings Act: Stephen Leviton

Oath of Office Joshua Shalika,
Third Alternate Board Member Board Attorney, John Miller

Roll Call: Janice Moench

In attendance at the meeting: Larry Cooper, Robert Gregowicz, Terry Rosenthal,
David Schertz, Adam Weiss, Rob DiTota, Basil
Mantagas, Stephen Leviton

Absent from the meeting: Mollie Kamen, Joshua Shalika

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

MINUTES:

A Motion was made by Mr. Cooper seconded by Mr. Weiss, to approve the Minutes of May 20, 2021 as written.

Yes: Cooper, Gregowicz, Rosenthal, Schertz, Weiss, DiTota, Mantagas, Leviton
No: None
Abstain: None
Absent: Kamen, Shalika
Not Eligible: Kamen

RESOLUTIONS: There were no resolutions offered

PUBLIC HEARINGS:

Applicants Larry Gjika and Claudia Tabares were first on the agenda. The Applicants were experiencing technical difficulties. The Board agreed to move forward with the second application on the agenda in hopes the Applicants would be able to resolve the technical issues.

Application No. ZBE2111

Applicant: John & Paula DiMaiuta
Proposal: Proposed Addition
Request: Side yard setback & building coverage relief
Location: 36 Thomas Drive
Block/Lot: 1908/18
Zone: R20

Board Attorney John Miller, Esq. swore in the Applicant John DiMaiuta.

The Applicant proposed to construct a 30 foot by 22-foot one-story attached four-season room addition to the rear of the home.

Mr. DiMaiuta, testified that he needed additional space in the existing residential home for his growing family. The Applicant further testified that bulk variance relief was required to permit the new four-season room where a 12-foot side setback was proposed and a 15-foot side yard setback is required. The Applicant then testified that the proposed four-season room would enhance the aesthetics of the property. He explained that he could not locate the addition further west because of the existing stairway used to access the rear door of the dwelling. The addition will have both an air conditioning and heating element.

Chair Leviton opened the meeting to the Board for questions or comments.

Mr. Cooper asked the Applicant if his architect was able to construct the addition to be conforming to the setbacks. The Applicant explained his architect advised him to apply for variance relief.

Mr. Rosenthal mentioned the building coverage relief. The Applicant explained he was over on the coverage by one percent. Being the building coverage was minimal, he didn't feel it was an issue.

Mr. Mantagas asked if the neighboring homes had any issues. The Applicant explained there are no issues with either of his neighbors and that he would be willing to install landscaping with shrubs/trees to prevent any site issues.

Chair Leviton asked for clarification on the venting proposed on the plans. The Applicant explained there are two appliances planned for the addition, a pizza oven and a barbeque burner.

Chair Leviton opened the meeting to the public for questions or comments on this application. Seeing there were no comments, Chair Leviton closed public portion.

Mr. Miller reviewed the C2 variance relief along with the negative and positive criteria. Mr. Miller asked the Applicant if what he proposed was common within the neighborhood. The Applicant responded yes.

Chair Leviton gave further explanation to the positive and negative criteria required for C2 variance with regard to the Municipal Land Use Law relief to the Applicant. Chair Leviton expressed concern that the addition to the rear may not satisfy the positive criteria for an aesthetic improvement to the neighborhood.

The Applicant explained he would be unable to make another exit out of the proposed sunroom. He reviewed different renderings with his architect prior to coming before the Board.

Mr. Miller explained the location of the rear steps and how it pertained to the hardship.

Chair Leviton opened the meeting to the public again for questions or comments on this application. Seeing there were no comments, Chair Leviton closed public portion.

A Motion of approval was by made by Mr. Weiss and Seconded by Mr. DiTota for application ZBE2111

YES:	Rosenthal, Schertz, Weiss, DiTota, Leviton
NO:	Cooper, Gregowicz
ABSENT:	Kamen, Shalika
ABSTAIN:	None
NOT ELIGIBLE:	Mantagas

Applicants Larry Gjika and Claudia Tabares were still experiencing technical difficulties. The Board agreed to move forward with the third application on the agenda in hopes the Applicants would be able to resolve the technical issue.

Application No. ZBE2048

Applicant: Lloyd & Jennifer Drucker
Proposal: Proposed two story addition
(Legitimize concrete surrounding pool & shed)
Request: Rear and side yard setback relief
Location: 4 Keats Court
Block/Lot: 2005/16
Zone: R20

Board Attorney John Miller, Esq. swore in the Applicants Lloyd and Jennifer Drucker.

The Applicants proposed to construct a 23 foot x 11 foot two-story attached addition to the rear of the home. Ms. Drucker, testified that her family needed additional space in the existing residential home. She stated that the addition would include new bedrooms, additional closet space.

Bulk variance relief was required to permit the new addition where a 45.3-foot rear setback is proposed and a 50-foot rear setback is required and where a 14-foot side setback is proposed and a 15-foot side setback is required.

The Applicant then stated that bulk variance relief was also required to permit the existing paver patio surrounding the existing in-ground swimming pool. Ms. Drucker testified that the Applicants obtained a permit to construct the in-ground swimming pool and were unaware that the surrounding paver patio encroached into setbacks.

Bulk variance relief was therefore required to permit the existing paver patio where a 10-foot side yard setback is required and an 8.5-foot setback exists and where a 10-foot rear yard setback is required and an 8-foot setback exists.

Mr. Drucker explained their property is irregularly shaped. Mrs. Drucker testified they worked with the architect to make the addition as small as possible, however they would still require relief, due to the property being “pie-shaped”.

Chair Leviton open the meeting to the Board for questions or comments regarding the application.

Mr. Schertz as for more testimony regarding the shed. Mr. Drucker testified the shed and pool violations were discovered during review of the variance application. The Applicants had no knowledge of the violation. Mr. Drucker testified twenty-two years ago Zoning Officer, Marc Micali marked the shed measurement with Mr. Drucker on the property. The Applicants had permits for the improvements.

Ms. DeFalco testified although she wasn't present for the meeting between Mr. Micali and Mr. Drucker, it was not uncommon for Mr. Micali to visit a property of a resident that he had a personal relationship with. Mr. DeFalco further

testified that the shed and pool patio deficiencies were discovered upon her review of a new survey. At the time the Applicant made application, Ms. DeFalco suggested it was best to address all of the non-conforming improvements.

Mr. Gregowicz asked if the pool was pre-existing. Mr. Drucker testified he and his wife put the pool in with permits and all inspections completed.

Mr. Rosenthal asked if the shed could be relocated to a conforming location. Mr. Drucker said he would have look at the backyard and find a location. Mrs. Drucker explained the rear property is lined with 12-foot arborvitaes. The yard has complete privacy.

Mr. Miller explained the variance relief being requesting falls under hardship. The house is “tilted” to comply with the front and rear setback, leaving limited space for the proposed improvement without relief being sought. Mr. Miller further explained the Applicant testified he relied on the word of the Zoning Officer that the shed location was in compliance. Mr. Miller explained this would be a hardship to the Applicant.

Mr. Weiss made a statement explaining that the Applicant relied on a municipal official.

Chair Leviton opened the meeting to the public for questions or comments on this application. Seeing there were no comments, Chair Leviton closed public portion

A Motion of approval was by made by Mr. Weiss and Seconded by Mr. Gregowicz for application ZBE2048.

YES:	Cooper, Gregowicz, Rosenthal, Schertz, Weiss, DiTota, Leviton
NO:	None
ABSENT:	Kamen, Shalika
ABSTAIN:	None
NOT ELIGIBLE:	Mantagas

Application No. ZBE2110

Applicant: Larry Gjika/Claudia Tabares
Proposal: Legitimize paver patio & driveway
Request: Side yard setback relief
Location: 56 Tarrytown Rd.
Block/Lot: 1407/7
Zone: R20

Board Attorney John Miller, Esq. swore in the Applicants Mr. Larry Gjika and Ms. Claudia Tabares.

Mr. Gjika, testified that the they would like to legitimize the existing driveway and rear yard patio.

Mr. Miller suggested the Applicant begin with the driveway testimony.

Mr. Gjika explained that the driveway existed in the same location when he purchased the home five years prior. The driveway was blacktop when he purchased the house. Mr. Gjika replaced the existing blacktop with pavers.

Ms. DeFalco explained the survey submitted to the Board and the Zoning office is from 2016 and shows the driveway at a zero lot line. Since 2016, the Applicant put in a permit to replace the driveway with pavers and extend the paver

driveway to the rear patio. The permit was denied due to the encroachment to the side yard property. During the construction of the patio and the gazebo, someone alerted the construction department of the activity and the

construction department issued a notice of violation to stop work. This brought the application back to the zoning department. The applicants agreed with Ms. DeFalco statement. Ms. DeFalco asked Mr. Gjika if he had adjusted the location of the gazebo to be in conformance at 15 feet from the side property line. Mr. Gjika confirmed this to be true. Ms. DeFalco confirmed the Applicants would now be seeking relief for the paver patio and driveway.

Mr. Gjika stated there are no pavers in the rear and the home connecting to the driveway. Currently there is just gravel there. Mr. Gjika further stated there is a paver patio located in the rear just outside the rear exit that is 11 feet from the fence. Ms. DeFalco explained there is 7.5 feet between the side property line and the rear patio. Ms. DeFalco further explained the Applicant was measuring from the fence located on the neighbor's property. Mr. Gjika agreed.

Chair Leviton opened the meeting to the Board for questions and comments.

Mr. Cooper asked the Applicant if they expanded the width of the driveway when installing the pavers. Ms. Tabares testified they replaced what was existing. Ms. Tabares stated last year prior to the pandemic she applied to the zoning office for permits. Ms. DeFalco explained the permit was denied. Ms. Tabares further testified they moved forward and did the work without the proper approvals in place. They are here in an effort to legitimize their mistake.

Chair Leviton confirmed with Ms. DeFalco that the permits submitted to the Zoning Department were denied and the Applicant continued to proceed with the improvements. Ms. DeFalco confirmed this statement to be true.

Chair Leviton and Ms. DeFalco discuss the pictures submitted by the applicant of their rear yard. It was confirmed by the Applicants they have relocated the gazebo to comply with the setbacks and currently sits at 16 feet from the side property line. Ms. DeFalco asked Mr. Gjika if when he relocated the fence, he took the measurements from his neighbor's fence. Mr. Gjika said he did not think so.

Ms. DeFalco suggested, should the Board act favorably on this application, the Applicant shall be required to submit an as-built survey to the Zoning Department. The as-built survey will confirm all of the said improvements comply with Applicant's testimony and the Board's approvals.

Chair Leviton discussed the as-built survey with Mr. Miller as a condition to the resolution should the Board act favorably. Chair Leviton asked the Applicants when the pictures submitted with to the Board were taken. Ms. Tabaras testified the pictures were taken a month or two prior to the meeting. Chair Leviton noticed there are pavers stacked in the pictures. Mr. Gjika explained he has not completed the paver improvements.

Mr. Cooper asked if the Applicant was completing the work himself. Mr. Gjika confirmed he was completing the work with his sons.

Mr. Schertz asked the Applicant if he was in the middle of completing the improvements. Mr. Gjika confirmed he was. Mr. Schertz expressed concern over why the Applicant is unable to remove 7.5 feet of pavers. Mr. Gjika explained if he has to remove a portion of the pavers, he would be willing to remove it.

Ms. DeFalco added the home is currently not in compliance.

Mr. Gregowicz confirmed the setback of the patio.

Chair Leviton opened the meeting to the public for questions or comments on this application. Seeing there were no comments, Chair Leviton closed public portion

Mr. Miller reviewed the setback relief on the record:

- Gazebo- 15 foot side yard is required and the Applicant is proposing 14.5 feet.
- Paver Patio- 15 foot side yard setback is required and 7.5 feet exists
- Driveway - 10 feet side yard is required and 0 feet exists.

Mr. Cooper made a motion to approve the driveway because it was pre-existing and to deny the patio and gazebo because the Applicant can remove the portion that is encroaching into the setback. There was not second for this motion.

Chair Leviton asked for a new motion.

A Motion of approval was by made by Mr. Weiss and Seconded by Mr. Gregowicz for application ZBE2110

YES:	Gregowicz, Rosenthal, Schertz, Weiss, DiTota, Leviton
NO:	Cooper,
ABSENT:	Kamen, Shalika
ABSTAIN:	None
NOT ELIGIBLE:	Mantagas

Chair Leviton opened the meeting to the public for questions or comments on this application. Seeing there were no comments, Chair Leviton closed the public portion.

ADJOURNMENT:

A Motion for adjournment was offered by Mr. Schertz, to adjourn the meeting at 9:05 PM. All were in favor and none opposed.

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.