

MANALAPAN ZONING BOARD OF ADJUSTMENT  
**MINUTES OF THE REGULAR MEETING**  
**Thursday, October 7, 2021**  
**TOWNSHIP OF MANALAPAN**  
**Manalapan, NJ 07726**  
**PUBLIC MEETING~ HD OFFICE SUITES**

Open Public Meetings Act: Stephen Leviton

Roll Call: Janice Moench

In attendance at the meeting: Robert Gregowicz, Terry Rosenthal, David Schertz, Basil Mantagas, Robert DiTota, Stephen Leviton

Absent from the meeting:

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

**MINUTES:**

A Motion was made by Mr. Gregowicz, seconded by Mr. Schertz, to approve the Minutes of **September 16, 2021** as written.

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

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**RESOLUTIONS:**

A Motion was made by Mr. Schertz, seconded by Mr. Gregowicz to approve the Resolution of memorialization for **Application ZBE2125 ~ Perez**

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

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A Motion was made by Mr. Gregowicz, seconded by Mr. Mantagas to approve the Resolution of memorialization for **Application ZBE2137 ~ Bastone**

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

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**PUBLIC HEARINGS:**

**Application No. ZBE2126 (ZCCO)**

**Applicant:** Pena/Noia  
**Proposal:** Legitimize Fence & Patio  
**Request:** Bulk variance  
**Location:** 1 Livingston Lane  
**Block/Lot:** 904/32  
**Zone:** R20

Kevin Uniglicht, Esq. was present on behalf of the applicant Mr. Jesse Pena. The contract purchaser Mr. Richard Noia was present as well. Mr. Jesse Pena and Mr. Richard Noia were sworn in by Mr. Miller

Mr. Uniglicht stated although Mr. Noia, the contract purchaser is present this evening, he did not anticipate taking testimony from Mr. Noia. Mr. Uniglicht then explained to the Board that the Applicant was proposing to legitimize an existing wood fence and concrete patio on the property. Mr. Uniglicht stated that the improvements existed when the Applicant purchased the property in 2012. Mr. Uniglicht submitted pictures of the improvements prior to the meeting. He advised he would share the pictures if the Board members should need to refer to them. The pictures were uploaded to the Google Drive for the the Board to review.

The following bulk variance relief was requested:

Minimum front yard setback for the fence is 75 feet, whereas a 68-foot setback exists.

Minimum front yard setback for the pool patio is 75 feet, whereas a 70-foot setback exists.

Maximum permitted fencing height is 3 feet, whereas a 6-foot fencing height exists.

Maximum permitted fencing height is 3 feet, whereas a 6-foot, 5-inch fencing posts' height exists.

Mr. Uniglicht states the improvements have been on the property for many years and the relief is marginal. There is no negative impact to the neighborhood.

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

Mr. Cooper advised he walked the property earlier in the day. Mr. Cooper clarified with Mr. Pena that the improvements were made prior to Mr. Pena taking residence. Mr. Cooper asked if inspections would be required through the town. Mr. Miller and Ms. DeFalco confirmed no inspections would be required to legitimize the fence and patio.

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.

A Motion of approval was by made by Mr. Cooper and Seconded by Mr. DiTota for application ZBE2126

YES: Cooper, Gregowicz, Schertz, DiTota,  
Mantagas, Leviton

|               |                                  |
|---------------|----------------------------------|
| NO:           | None                             |
| ABSENT:       | Kamen, Rosenthal, Weiss, Shalika |
| ABSTAIN:      | None                             |
| NOT ELIGIBLE: | None                             |

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**Application No. ZBE2121 (ZCCO)**

**Applicant:** Kaminsky/Berg/Palmer  
**Proposal:** Legitimize driveway & pool paver patio  
**Request:** Bulk variance  
**Location:** 16 Winding Woods Way  
**Block/Lot:** 1008/6  
**Zone:** R20

Ms. Jessica Berg and Adam Palmer were present and sworn in by Mr. Miller. Ms. Berg testified they were present to legitimize the driveway that is encroaching into the setback. She further testified they purchased the home four months prior with the driveway in the current location. Ms. Berg explained to her knowledge the driveway has been in this location for approximately eight years. Ms. Berg stated it would benefit the community to keep the driveway in the current location and it would be detrimental to cut it back to a conforming location. Ms. Berg added the driveway is aesthetically pleasing in the current location.

The following bulk variance relief was requested:

Minimum side yard setback for a driveway is 10 feet, whereas a 5-foot setback exists.

Minimum side yard setback for a pool patio is 10 feet, whereas a 3.5-foot setback exists

The previous owner was able to provide proof the paver patio was in place for over 10 years. Ms. Berg explained there are mature plants surrounding the patio therefore it would be detrimental to the community to remove the patio.

Chair Leviton asked Ms. DeFalco to provide further explanation on the 10-year rule as it applies to the ZCCO program.

Ms. DeFalco explained if the seller was able to prove the item has been in place for 10 years or more, the town will allow the non-conformity to remain. However, the new owner would be required to sign an affidavit stating they are aware of the non-conformity and when the improvement is replaced, it would need to be brought back into a conforming location. If the Applicant wanted to replace the item in the same non-conforming location, they would need to seek variance relief. Should the Board grant the variance; the improvement may remain in the location. The variance runs with the land.

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

Mr. Cooper explained his questions would have been for the prior owners. Being they are not present this evening, Mr. Cooper has no questions at this time.

Mr. Mantagas confirmed the relief for the driveway. Ms. DeFalco confirmed the setback relief to be five feet.

Chair Leviton opened the meeting to the public for questions or comments on this application.

Mr. Miller swore in Mr. and Mrs. Armstrong of 14 Winding Woods Way. The Armstrong's reside next door to the Applicants on the side where the driveway was expanded. Mr. Armstrong explained there are lights shining into his window. Mr. Armstrong further testified he fears cars will be parking on his grass due to the stone bordering the driveway that actually extends the driveway further into the setback. Mr. Armstrong testified that a few years back his wife called the Zoning Department to make a formal complaint because the driveway was extended to a zero lot line. Mr. Armstrong further explained the Township required the prior owners to cut the driveway back. The current owners cut the driveway back to the current Location. Ms. Armstrong explained when a car pulls into the driveway and turns into the extended portion of the driveway, the lights shine into her bedroom windows and she has hard time sleeping. Ms. Armstrong explained there is no buffer there.

Mr. Berg apologized to Mr. Armstrong for what happened prior to them moving in. She further explained he had no knowledge of any issues. Ms. Berg explained they do not use that portion of the driveway.

Chair Leviton closed the public portion of the meeting and opened the meeting to the Board members for comments and questions.

Mr. Cooper expressed concerned on the border extending the driveway.

Mr. Gregowicz had concerns that there is no way to determine if the border is decorative block or extension of the driveway.

Chair Leviton asked the Bergs if they would be willing to install to a landscape buffer to ensure the lights would not shine into the Armstrong home. The Bergs were willing to install a buffer for the light. Mr. Berg and Ms. DeFalco discussed what type of buffer should be planted if the Board should act favorably on the application.

Mr. Miller expressed concern from a legal standpoint with regard to the live buffer, should the buffer not grow properly. Ms. Armstrong stated the lights are shining in on the second floor. Chair Leviton explained this would not be a condition of the resolution although it was discussed informally.

A Motion of approval was by made by Mr. DiTota and Seconded by Mr. Gregowicz for application ZBE2121

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

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**Application No. ZBE2123**  
**Applicant:** Joaquim Ventura  
**Proposal:** Fence street side setback  
**Request:** Bulk variance

Location: 102 Sweetmans Lane  
Block/Lot: 7703/12  
Zone: R20

The Applicant, Joaquim Ventura, and James Ferranti the Applicant's son-in-law were present and sworn in by Mr. Miller.

Mr. Ventura explained his Daughter and her family reside in the home. They have recently made improvements to the home with an addition and a garage that made the backyard smaller than intended. The shape of the backyard is unusual as it goes up hill and surrounded with trees. Mr. Ventura explained they do not wish to remove any trees. The family enjoys the shade they provide and the park-like atmosphere. There is very little area for the kids to play. There is also an issue with the deer entering in the yard. The fence will keep the deer at bay and allow the kids a larger area to play and have privacy. The proposed fencing would provide additional safety and security for his family.

Mr. Ventura testified that he was seeking to install a 6-foot high vinyl privacy fencing to enclose the front, side and rear yards of the property.

The following bulk variances relief was requested:

Minimum front yard (Lamb Lane) setback driveway is 75 feet, whereas a 20-foot setback was proposed.

6-foot high fencing located in the front yard where a maximum 3-foot fence height is permitted.

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

Mr. Cooper asked what type of fence is proposed. James Ferranti, the Applicant's son-in-law, testified that the fencing would be 6-foot high white closed vinyl with a design at the top. He added that the fencing would enhance the aesthetics of the home. Mr. Cooper asked if the fence could be brought into conformance. Mr. Ventura explained that due to the property going up-hill, that would leave less area for the kids to play.

Mr. Mantagas asked how many gates are proposed. Mr. Ventura explained two gates are proposed. Mr. Mantagas asked if there were any site line issues. Mr. Ventura explained there were no site issues.

Chair Leviton explained the lot is unique in shape with two front yards and leaves the backyard to be a small area.

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.

A Motion of approval was by made by Mr. Gregowicz and Seconded by Mr. DiTota for application ZBE2123

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

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**Application No. ZBE2128**

**Applicant:** Ahmad Elshourafa  
**Proposal:** Legitimize shed  
**Request:** Bulk variance  
**Location:** 13 Manalapan Woods Drive  
**Block/Lot:** 7602/7  
**Zone:** R20

Ahmad Elshourafa was present and sworn in by Mr. Miller. The Applicant purchased the home in December 2020. There was an existing shed that was installed in 2010. In 2011 the township issued a waiver for the shed to remain. The back of the property slopes down and a creek behind the property. Coupled with the topography and leaving room for the septic, Mr. Elshourafa explained he believes there was no other location for the prior owner to place the shed.

The following bulk variance relief was requested:

Minimum side yard setback for a detached structure is 10 feet, whereas a 3.5-foot setback exists.

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

Mr. Cooper expressed concerned with the Health review. The Applicant explained he spoke with the Health Department in detail and was advised what would need to be done if any issues should arise pertaining to the septic.

Mr. Schertz asked if the shed had to be a certain distance to the stream. The Applicant explained the stream runs behind his property not on it. However, the stream creates very wet conditions when it rains.

Mr. Gregowicz asked for clarification on the waiver the Applicant spoke of during testimony. The Applicant explained a waiver was issued to the previous owner for the shed. This waiver carried over to the next owner. Once Mr. Elshourafa took residence he had to address the waiver with the Board of Adjustment.

Mr. Mantagas and the Applicant discussed the location of the shed being on an angle.

Mr. DiTota asked if the Board should act favorably on this application and the shed should need to be replaced, could the shed be placed in the same location. Mr. Miller explained the variance runs with the land. The shed can be replaced in the same location.

Chair Leviton opened the meeting to the public for questions or comments on this application.

Mr. Roger Pauling of 11 Manalapan Woods Drive was present and sworn in by Mr. Miller. Mr. Pauling explained he is the next-door neighbor to the Applicant. Mr. Pauling further explained he has lived in his home since in 1988 and he assisted the previous owner in building the shed. There is no detriment to the neighborhood and asked the Board to act favorably.

Chair Leviton closed the public portion of the meeting.

A Motion of approval was by made by Mr. Mantagas and Seconded by Mr. Gregowicz for application ZBE2128

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

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**Application No. ZBE2130**

**Applicant:** Carly Fink  
**Proposal:** Legitimize existing fence  
**Request:** Bulk variance  
**Location:** 26 Holiday Road  
**Block/Lot:** 703/13  
**Zone:** R20

Ms. Carly Fink was present and sworn in by Mr. Miller. Ms. Fink explained that the front yard fencing, swimming pool, pool patio and pool equipment existed in the same location when she purchased the property in May 2021. Ms. Fink explained the property is a located on a corner lot. Ms. Fink further testified that the shed that was located in the front yard setback has been removed.

The application was proposing to legitimize the existing front yard fencing, pool patio and pool equipment on the property. The following bulk variance relief was required:

Minimum front yard setback for the fence is 75 feet, whereas a 39-foot setback exists.

Minimum front yard setback for the pool patio is 75 feet, whereas a 60-foot setback exists.

Minimum side yard setback for the pool patio is 10 feet from the side yard, whereas a 5-foot setback exists.

Minimum rear yard setback for the pool patio is 10 feet; whereas a 7.5-foot setback exists.

Minimum side yard setback for the pool equipment is 10-foot, whereas a 3-foot setback exists.

Minimum rear yard setback for the pool equipment is 10 feet; whereas a 5-foot setback exists.

Maximum permitted fencing height is 3 feet, whereas a 6-foot fencing height exists.

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

Mr. Schertz asked if the fence was there when she purchased the home.

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.

A Motion of approval was by made by Mr. Schertz and Seconded by Mr. Gregowicz for application ZBE2130

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

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Chair Leviton opened the meeting to the public for any non-agenda items. Being there were no comments Chair Leviton closed public.

**ADJOURNMENT:**

A Motion was offered by Mr. Cooper to adjourn the meeting at 9:00 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.