

MANALAPAN ZONING BOARD OF ADJUSTMENT
MINUTES OF THE REGULAR MEETING
Thursday, December 2, 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: Larry Cooper, Terry Rosenthal, David Schertz, Adam Weiss, Basil Mantagas, Joshua Shalika, Stephen Leviton

Absent from the meeting: Mollie Kamen, Robert Gregowicz, Robert DiTota

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

MINUTES:

A Motion was made by Mr. Rosenthal, seconded by Mr. Weiss, to approve the Minutes of **November 4, 2021** as written.

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

RESOLUTIONS:

A Motion was made by Mr. Weiss, seconded by Mr. Leviton, to approve the Resolution of memorialization for **Application ZBE2011~Yum & Chill TB Holdings**

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

A Motion was made by Mr. Schertz, seconded by Mr. Mantagas to approve the Resolution of memorialization for **Application ZBE2134~Moran**

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

A Motion was made by Mr. Cooper, seconded by Mr. Schertz to approve the Resolution of memorialization for **Application ZBE2139~Roche**

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

PUBLIC HEARINGS:

Application No. ZBE2141

Applicant: John & Rosalia Fisher
Proposal: Rear Patio - setback relief
Request: Bulk variance
Location: 40 West Parsonage Way
Block/Lot: 6510/9
Zone: GCRC

The Applicants, John and Rosalia Fisher were present and sworn in by Mr. Miller. Mr. Fisher explained the home is situated on a narrow .15-acre lot. When the Applicants purchased the home there was a pre-existing property wall running along the rear property approximately 20' from the rear of the home. Directly in behind the wall is a high mound of earth also known as a berm. The wall is preventing the earth from breaking down. The wall also acts to keep water, rain, snow etc. from running down into the yard that would eventually erode the property. In addition to the landscape wall there is a rear patio that runs 10' feet from back of the dwelling. This leaves an 8' gap between the patio and the landscape wall. Mr. Fisher further explained they are seeking a variance to extend the patio 8' to meet the landscape wall and cover the uneven dirt surface. Aesthetically the dirt gap is not pleasing. The extension of the patio will create a finished look to the backyard. The additional pavers will further reinforce the retaining wall. The patio is at ground level so it will not create any visual impairment and due to the existing berm, the patio will not be visible behind the property. Behind the home is common area. Mr. Fisher referenced the Municipal Land Use Law 40:55D. Specifically section "I", and section "K"

Chairman Leviton and Mr. Miller discussed the C(1) and C(2) variances that Mr. Fisher referenced his testimony. Mr. Miller advised the Board that the Applicant is to supply the proofs for one of the purposes of zoning. The Applicant has provided two purposes of zoning. Mr. Miller further advised the Board they are not to consider any testimony regarding any improvements that will have effect on the property value.

Chair Leviton asked the Applicant why they failed to provide the Homeowners Association approval letter. The Applicant explained they sent the letter to Ms. Moench however, it was early evening and Ms. Moench was unable to open the email. Mr. Fisher read the letter into the record. Ms. DeFalco explained the Homeowners Association approval letter currently states they would permit the improvement as long as the patio was within the township setbacks. The letter will need to be revised to state the Applicant is encroaching into the township setback.

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

Mr. Rosenthal explained the rear of the property backs to Millhurst Rd. with no homes there.

Mr. Cooper asked the applicants why they were looking to expand the patio. Mr. Fisher explained the current patio is quite small and narrow. Mr. Fisher further explained when they first purchased the home the patio was expanded. Then

prior to closing the sellers removed the expansion because they failed to file a permit. Mr. Cooper asked if the area in front of the wall was on an incline. The Applicant explained the area was flat.

Mr. Mantagas asked how the drainage was in the rear of the property. Mr. Fisher explained there was pooling on the side of the home where there is common ground. Mr. Mantagas asked the Applicant if the proposed improvement would affect the neighboring properties. Mr. Fisher replied no.

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

Mr. Miller asked the applicant to review the relief being sought. Mr. and Mrs. Fisher and Ms. DeFalco agreed the applicant was requesting a 2' rear setback where 10' is required.

Mr. Weiss made a motion to approve the application subject to the receipt of the Homeowners Association letter of approval.

A Motion of Approval was by made by Mr. Weiss, Seconded by Mr. Rosenthal, for Application ZBE2141 ~ Fisher

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

Application No. ZBE2143

Applicant: Rasik Jivani
Proposal: Fence - setback relief
Request: Bulk variance
Location: 51 Joseph St.
Block/Lot: 8300/1
Zone: RR

The Applicant Mr. Rasik Jivani and his Son-In Law, Mr. Dustin Loper were present and sworn in by Mr. Miller. Mr. Loper was present to speak on Mr. Jivani's behalf.

Mr. Loper explained the Applicant would like to erect a 5' black aluminum fence just inside the living fence on his property. Mr. Loper explained the Applicant has three grandchildren and a dog. For security, they are proposing a fence. Mr. Loper explained the 3' fence that is permitted would not be beneficial to the due to the high traffic on Sweetmans Lane. Mr. referenced the fence at 49 Joseph Street.

Ms. DeFalco explained the Applicant is proposing the fence in the front setback on Joseph Street and Sweetmans Lane. The property is unique as it has three front yards. Ms. DeFalco confirmed with the Applicant that they are proposing the fence at 40' ft on the Joseph Street side and 30' on the Sweetmans Lane side. Mr. Loper and Ms. DeFalco discussed the fence location.

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

Mr. Rosenthal inquired about site line issues. Mr. Loper explained the proposed fence would be installed inside of the tall living fence that currently exists on the property. The proposed fence would not be visible from the street.

Mr. Cooper asked the ages of the children. Mr. Loper testified the children are 12, 6, and 4. Mr. Cooper asked if Mr. Loper if he thought the kids would be able to jump over the 3' fence. Mr. Loper said yes. Mr. Cooper and Mr. Loper

discussed the setbacks and why the Applicant is unable to comply with the ordinance.

Mr. Schertz discussed the length and setbacks of the fencing. Ms. DeFalco added the RR Zone typically has a 100' setback; however, this development was built with a 75 ft setback.

Mr. Mantagas confirmed with the Applicant that the fencing would be opened.

Mr. Weiss explained he resides in the area and passes the property daily. His only concern was the site line issue. Seeing there will be no site line issues he no longer has concerns. Mr. Weiss confirmed the fence would be located inside the living fence.

Ms. DeFalco asked the Applicant to confirm the proposed setbacks for the fence to be 30' from Sweetmans Lane and 40' Joseph Street. Mr. Loper explained he took the measurements from the curb. Ms. DeFalco suggested they move forward with the measurements on the survey. Ms. DeFalco explained when it was time to apply for the permit he could come down to the zoning office and they can review it together.

Chair Leviton opened the meeting to the public for questions or comments relating to this Application.

There were no further questions or comments from Mr. Miller.

A Motion of Approval was by made by Mr. Weiss, Seconded by Mr. Mantagas, for Application ZBE2143 ~ Jivani

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

Application No. ZBE2145

Applicant: Marty & Jessica Haber
Proposal: Vestibule addition - setback relief
Request: Bulk variance
Location: 10 Plymouth Lane.
Block/Lot: 1813/2
Zone: R20

The Applicant Marty Haber was present and sworn in by Mr. Miller.

Mr. Haber provided background information regarding the property. He explained his wife grew up in the home and they are very attached to the property. Shortly after purchasing the property, the Haber's began to expand their family. The home currently has one closet for storage at the entryway under the steps. This closet is hard to access upon entry to the home. Mr. Haber explained he is asking the Board to grant permission to allow him to build a 6' by 9' portico. The portico will allow for an area to keep the kids belongings upon entering the home. The portico will also serve as protection from the elements upon entry. Mr. Haber explained the proposed portico would not create a disturbance to the neighborhood.

Chair Leviton confirmed with Ms. DeFalco the home is pre-existing non-conforming. Any improvement made to the home would require variance relief. Ms. DeFalco further explained the home was built in the 1980's.

Most of the development was built with a 50' front setback. The setback for the property today is 60'.

Ms. DeFalco asked the Applicant for clarification on the measurements of the proposed portico. She further explained the application requests 7 ½' by 9.6', however Mr. Haber testified the portico would be 6' by 9'. Mr. Haber confirmed the measurements on the application to be correct. Ms. DeFalco explained the setback relief would be 47.84' proposed where 60' is required and 55' currently exists.

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

Mr. Rosenthal and Ms. DeFalco discussed the pre-existing setback.

Mr. Cooper asked if there is an existing covered porch on the property. Mr. Haber testified there is no covered porch.

Mr. Haber confirmed the proposed portico would aesthetically improve the neighborhood.

Mr. Schertz confirmed with the Applicant that he is proposing to extend the foyer forward by 7 ½' and there will be two closets inside the addition.

Mr. Miller confirmed with the Applicant that the proposed portico would provide protection from the elements to people entering the home and increase the safety of the entrance.

Chair Leviton opened the meeting to the public for questions or comments relating to this Application.

A Motion of Approval was by made by Mr. Mantagas, Seconded by Mr. Weiss, for Application ZBE2145 ~ Haber

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

Mr. Cooper provided feedback to the Board on the League of Municipalities conference that he attended in November

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. Weiss to adjourn the meeting at 8:30 PM. All were in favor and none opposed.

Respectfully Submitted,

Janice Moench
Recording Secretary

A RECORDING OF THE ZONING BOARD OF ADJUSTMENT IS AVAILABLE FOR REVIEW, IN THE PLANNING/ZONING BOARD OFFICE BY APPOINTMENT.