

Zoning Hearing Board
Lower Saucon Township
Town Hall
January 16, 2012

MINUTES

The meeting was called to order at 7:02 p.m. by Chairman Jason Banonis.

Roll Call

Present at the meeting were Chairman Jason Banonis, Secretary Keith Easley, and Board Member Lachlan Peeke. Vice Chairman Ted Grigg and Board Member Austin Kunsman were absent. The Solicitor, George A. Heitzman, was present.

Reorganization

Chairman Banonis called for nominations for the coming year. Mr. Peeke moved to keep the same slate of officers, Solicitor, and meeting dates as last year. The motion was seconded by Mr. Easley and passed by a vote of 3 to 0, resulting in the reappointment of Jason Banonis as Chairman, Ted Griggs as Vice Chairman, Keith Easley as Secretary, and George A. Heitzman as Solicitor for 2012, and also resulting in the designation of 7:00 p.m. on the third Monday of each month during which there is business to transact as the date and time for meetings of the Board, except for the months of July and August when the Board may meet on the fourth Monday, so as to permit Township Council to review applications during that month.

Minutes

The Board had before it for approval the minutes of the meeting of

November 21, 2011. Mr. Peeke moved to accept the minutes as submitted. The motion was seconded by Mr. Easley and passed by a vote of 3 to 0.

Bills

The Board had before it for approval a bill from the Morning Call for advertising the meeting of November 21, 2011, the Court Reporter's bill for attendance at the meeting of November 21, 2011, and the Solicitor's invoice for the month of November, 2011. Mr. Easley moved to pay the bills as submitted. The motion was seconded by Mr. Peeke, and passed by a vote of 3 to 0.

Variance Appeal of George Petito - Variance 13-11

Chris Garges, the Zoning Officer, was sworn and testified that Applicant is purchasing the property which is located in an R-80 zoning district and would like to construct two additions and a garage at the above referenced parcel, 1817 Apple Tree Lane, Bethlehem. The proposed garage structure will encroach into the side yard setback required by §180-29B.

Applicant is also proposing to construct a 6' tall fence around the parcel. Such a fence is permitted in the side and rear yards, however the maximum permitted height under §180-97C(2) in the front yard is 4'. The fence is proposed to follow the right of way line along a portion of Apple Tree Lane. Installation of the fence will require a zoning permit, and should there be a gate at the driveway entrance, it will have to meet applicable codes including a Knox system to permit rapid entry of fire equipment.

The lot is approximately 2.8 acres in size. The property presently contains a single family dwelling and attached garage. The existing coverage is 10,896 ft² or 8.9%. The proposed net increase in coverage of 3,594 ft² will raise the coverage to 11.9% which will not exceed the maximum allowable coverage of 20%. The property is served by on-lot sewer and public water.

In summary, Applicant will need approximately 13' of relief from the side yard setback of 40' required by §180-29B. Applicant will also need approximately 2' of relief from the maximum fence height of 4' of §180-97C(2) for the portion of the fence in the front yard.

Township Council took no action in the matter.

Scott Mease of Mease Engineering was sworn and testified that he was retained by Mr. Petito to prepare a plan of the proposed additions to the existing single-family dwelling.

Attorney Walter E. Morrissey entered his appearance with the Board on behalf of a number of Objectors who are adjoining property owners.

Mr. Mease identified Applicant's Exhibit A-1 as a plan of the property showing the setback lines and proposed additions to the property. He stated that the land is in an R-80 district which has a lot size requirement of 1.837 acres, and this property comprises 2.8 acres. He identified Applicant's Exhibit A-2 as the deed description of the property, Applicant's Exhibit A-3 as a tax map of the property, and Applicant's Exhibit A-4 as a portion of the subdivision plan.

Mr. Mease testified that it is anticipated that 674 ft.² of existing driveway will be removed. There will be a net increase in impervious cover due to the proposed additions of 3,594 ft.² which would raise the total impervious cover to 12%. The limit allowed is 20% so there is no issue as to impervious cover.

He testified that the location of the additions as shown on the plan were controlled by the layout of the present structure. The design is intended to mask the fact that large garages are being added as they will look like they are part of the house structure. He testified that there is a 4' earthen bank from the driveway to the property line which will help to serve as a buffer.

A variance is also sought for the fence which is desired to be 6' high. The Zoning Ordinance would limit the portion of the fence at the front of the property to 4' high. Mr. Petito wishes to have a higher fence in order to keep out the deer

which are prevalent in the area, as he has had lyme disease twice.

Attorney Morrissey questioned Mr. Mease as to whether the plan is accurate. He noted that another individual, Mr. Tattersall, had a plan that differed from Mr. Mease's plan of Exhibit A-1. Mr. Mease testified that the interior angles of the two plans were the same, as were the length of the courses. He said any differences are due to a different North line being used when the subdivision was initially laid out. He stated he was confident that his survey and plan is correct.

Michael Gausling, a member of the audience, was sworn and asked whether the fence could be placed at the location shown on the plan since the utility easement would then be inside the fence. He was told that this could be done although the owner would have to remove the fence if access to the utility easement was needed.

Mr. Petito was sworn and stated that he agreed with Mr. Mease's comments. He said there were 20 or 30 deer that live on the property and had been fed by a prior owner. He had lyme disease twice and wants to ensure that deer will not be able to jump over the fence, and that is the reason for requesting an increase in height to 6'.

Attorney Morrissey questioned whether he had removed trees from the property and was told that Mr. Petito was not aware of any trees being removed as of that day. Discussion was had with the Board as to whether a permit to remove trees was necessary, and Mr. Garges said that it was not, not based on the number of trees, but there was a requirement as to percentage of tree cover.

Attorney Morrissey then began questioning as to whether the surface water runoff will be increased. Chairman Banonis interjected and said that there is no impervious cover issue before the Board, and that any water flow issues should be reserved for a later time when grading plans are submitted.

Mr. Petito identified Applicant's Exhibit A-5 as a photograph of a type

of fence he plans to install, although he said it would not necessarily be exactly as shown in the photograph. Mr. Petito also noted that the portion of the fence in the front of the property, due to the irregular shape of the property, will only be approximately 149' long, a relatively small distance. Mr. Mease said that if the fence were set further back there could then be a 6' fence without a variance, but it was believed that the fence would look better at the location shown on the plan.

Attorney Morrissey questioned whether the property had been properly posted, and Chris Garges said that he had checked and it had been.

Beverly Eighmy was sworn and testified that her property is downslope from Applicant's property and that it is a very delicate and sensitive area with regard to water flow. She believes that any increase in impervious cover will be harmful. She also noted that the garage seems overly large for a residential structure and Mr. Petito said that he collects cars. Finally, she noted that she had gotten lyme disease on four occasions and that a fence will not keep ticks out and it is ticks that spread the disease.

Mr. Petito stated that the area of the garage was to be 2,424 ft² of which 900 ft² would be used for storage.

Mr. Gausling then argued to the Board that the variance should not be granted as the requirements of the Municipalities Planning Code for a variance had not been met.

Jacqueline DiSante was sworn and questioned the height of the fence where Mr. Petito currently lives, as he said it was in the neighborhood, and was told his current fence is 5' in height.

William Tattersall was sworn and testified that he was one of the original landowners in the area, having bought land from Bethlehem Steel in 1976. He identified a plan of the Saucon Valley Farm Orchard Subdivision as Objector's Exhibit O-1. He testified he believed that the plan of Exhibit O-1 is accurate

whereas the plan of Exhibit A-1 is not. He stated that he met with Mr. Mease and Mr. Mease changed some of the numbers on his plan but did not come into complete conformance with Exhibit O-1.

Mr. Tatersall testified that his land abuts the side of Applicant's property where the variance is being requested. He also noted there is a natural spring in that area and the area is often wet. He stated that he believed Mr. Petito would be building in a natural swale area.

Mr. Mease again testified that he had considered the Exhibit O-1 but still believed that his plan is accurate. Mr. Mease testified that the surveyor employed by Mease Engineering is licensed and has had 35 years of experience. He noted again that if the fence were moved back 50' it could then be 6' high without requesting any variance. He testified that moving the fence in front of the property back to such a distance would be inappropriate.

Mark McDermott was sworn and questioned whether a seal was required for the drawing and was told that it was not at this point. He also questioned whether a Bethlehem Steel benchmark in the area had been used for the survey and was told that it had not.

Chairman Banonis announced that the two variances would be considered separately. Mr. Peeke moved to grant a variance from §180-97C(2) as to the height of the fence and this motion was seconded by Mr. Banonis and passed by a vote of 3 to 0.

Mr. Peeke then moved, seconded by Mr. Banonis, to grant the variance from §180-29B as to the sideyard setback and this motion failed by a vote of 2 to 1 with Mr. Easley voting in favor of the motion and Mr. Peeke and Mr. Banonis voting against it. The variance was therefore denied.

Variance Appeal of Michael & Tracy Kiefer - Variance 03-11
Continued from November 21, 2011 Meeting

This hearing was continued at the request of Applicant's attorney due to a family health emergency.

Variance Appeal of Alex Patullo - Variance 03-10
Remanded by Commonwealth Court

This hearing was continued to permit advertising the amended application.

Old Business

There was no old business before the Board.

New Business

There was no new business before the Board.

Adjournment

There being no further business before the Board, Mr. Peeke moved, seconded by Mr. Easley, to adjourn the meeting. The motion passed by a vote of 3 to 0 and the meeting adjourned at 8:30 p.m.

Respectfully submitted,

George A. Heitzman
Solicitor