

The regular monthly meeting of the Shelter Island Zoning Board of Appeals was held on January 20, 2016, at 7:30 p.m. prevailing time in the Shelter Island Town Hall, Shelter Island, New York.

Board Members Present: Chairman Doug Matz, William Johnston III, Lynne Colligan, Phil DiOrio, Neal W. Raymond

Others Present: Chris Lewis, Mary Dudley, Greg Anderson, John Bennett, Stella Lagudis, Tim Purtell, Julie Lane, Mary Kanarvogel, Mark Kanarvogel, Jim Colligan, Cathy Driscoll, Juergen Riehm

Chairman Doug Matz opened the meeting at 7:30 p.m.

Minutes from December 16, 2015 were approved.

Applications:

These minutes contain materials which paraphrase and or summarize statements made during this hearing. Only text enclosed in quotation marks report a speakers exact words.

Watts 05-15

ZBA Clerk: A hearing on the application of Jerrell and Justine Watts for a variance at 46 Ram Island Road, Shelter Island, NY, which is Zone “AA-Residential” on the Shelter Island Zoning Map, and specifically described on the Suffolk County Tax Map as 0700/08/03/5.4. Applicant seeks variances from Section 133-7(B) (5) to maintain a generator 30.5’ from the front property instead of the required 50’ front yard setback.

Watts and their representatives were not in attendance for the hearing.

The hearing was closed, left open for written correspondence only until February 3, 2016.

Anderson 06-15

ZBA Clerk: A hearing on the application of Greg and Virginia Anderson for a variance at 1 Bayview Avenue, Shelter Island Heights, NY which is Zone “AA-Residential” on the Shelter Island Zoning Map, and specifically described on the Suffolk County Tax Map as 0700/06/1/7/4. Applicant seeks variances from Section 133-7(B) (5) to maintain a pool and patio 32.8’ from the Prospect Avenue front yard line instead of the required 40’ front yard setback.

Correspondence received:

Email dated, December 28, 2015, from Stella Lagudis, of the Shelter Island Heights Property Owners Association in which she forwarded a letter from Clark Briner, member of the association regarding the Anderson ZBA variance application.

Email dated, December 29, 2015, from Stella Lagudis, of the Shelter Island Heights Property Owners Corporation regarding the embankment of Anderson’s property. Photos of the embankment of Anderson’s property were attached.

Mr. Anderson stated that he has been in communication with Mr. Ed. Barr and has met with Tim Purtell from the SIHPOC. Mr. Anderson in addressing the landscaping issue submitted two proposals; one from Buttercup Landscaping and one from Cut and Trim. Mr. Anderson says he is ready to accept Cut and Trim's proposal.

Mr. Anderson then brought up the issue of the sand. Mr. Anderson stated there is a very obvious run off from the rain at Barr's 3 Bay View Avenue, and on Prospect Ave. Anderson's property is steeply sloped and the run off comes from the property on both of those areas. Mr. Anderson opined that the sand issue might be a whole Heights issue. Member Phil D'Orio said that there are big pieces mulch and wood chips from Anderson's property that end up in the street after every rain. Member Phil D'Orio feels that the sand is much less an issue than the mulch. Member Lynne Colligan asked about Exhibit E from the original landscape plan done by 212 Design Company of New York. Member Lynne Colligan asked if that company is involved at all in this new plan. Mr. Bennett, Anderson's attorney, said that 212 Design was the original landscaping company in the original plans. Member Lynne Colligan indicated that Mr. Anderson owned 212 Design Company. Member Lynne Colligan asked Mr. Anderson if his company, 212 Design did the original landscaping work or did the other company listed in the plans, Verderbar, do the original work. Mr. Anderson said it was Verderbar that did the original landscaping work. Member Phil D'Orio asked if Mr. Anderson had a plan with Buttercup. Mr. Anderson said not yet.

Member Phil D'Orio asked if the issue relating to excessive noise from pool users had been addressed. Mr. Anderson said he has reached out to Mr. Barr and they are willing to split the cost of planting a buffer between the properties. Member Phil D'Orio stated that Mr. Bennett, Anderson's lawyer, stated that his client was going to get a sound expert to see what professionally could be done and Member D'Orio was asking if they indeed did get a professional sound expert. Mr. Anderson stated he does not know how to address the noise element. His neighbors have multiple level decks and he does not understand how someone could quantify the noise element. Mr. Anderson does not know of any formula to solve the problem even if they hire a sound acoustic engineer to come up with a correct formula. Mr. Bennett, Anderson's counsel, stated that he believes his client, Mr. Anderson, is willing to have Mr. Clark, of Cut and Trim, to install an additional buffer of trees. Mr. Anderson went on to say that he had a conversation with Mr. Barr and Cut and Trim came and looked at the properties and gave an estimate that was submitted to the ZBA of a buffer of trees, total cost \$11,500. Mr. Anderson said that as of right now there is no agreement with Mr. Barr to have Cut and Trim do the work.

Mr. Anderson feels that entering into an agreement with Cut and Trim is a good solution and there is no science that this will work. But Mr. Anderson is willing to try. Member Phil D'Orio clarified with Mr. Bennett, Anderson's attorney, at the last meeting he stated that a noise buffer would be something his client would do. Member Phil D'Orio said Anderson's attorney, Mr. Bennett stated at the last hearing that a sound barrier needs to go very close to the noise/pool.

Chairman Doug Matz asked Mr. Barr if he would like to comment.

Mr. Barr stated that he owns 3 Bayview Ave. there was never had a problem with run off from his property onto the Scudder property across the street. Mr. Barr stated that he did speak with Mr. Anderson and talked about putting in trees. Mr. Barr stated that neither he nor Mr. Anderson are professional sound landscape architects. Mr. Barr has engaged with a professional landscape architect who deals with noise buffers.

Mr. Barr said he would be responsive to a plan of a buffer on the property line or close to the pool. He would be happy to work with cost with Mr. Anderson. He did not agree to 50%, but is willing to contribute to solving the problem. Mr. Barr also stated that the noise from the patio and pool are a different situation then their deck noise. Mr. Barr said that Mr. Greg Anderson did respond when there was a noise issue. Mr. Barr says he could work something out with Mr. Anderson. Mr. Barr said that respectfully, Dick Clark of Cut and Trim, made proposal of something that would survive but not something he could do to deal with sound. That is why he wants to go with the sound landscape expert.

Chairman Doug Matz asked the Heights representatives to speak on this application. Stella Lagudis stepped up and stated that she is the general manager of the Shelter Island Heights Property Owners Corporation and wanted to make something clear on where they stand on this application. Ms. Lagudis wanted to go over the process in which they support a variance. Ms. Lagudis stated that the Property and Roads Committee has by laws on construction in the Heights.

Ms. Lagudis stated that they collect information from the homeowners and surrounding neighbors and any other information that may impact the roads and properties in the Heights. Ms. Lagudis stated that when the initial pool permit went out, it seemed cut and dry and the neighbors were notified about the permit. Ms. Lagudis said that nothing they could legally do about concerns of the erosion. Ms. Lagudis also stated that emails did go back and forth between her predecessor and Mr. Greg Anderson.

Ms. Lagudis thanked Greg Anderson for reaching out to Heights Property Association Association representative, Tim Purtell, to talk about negating the run off. Ms. Lagudis stated that the Shelter Island Heights Property Owners Association has a separation of two issues. Ms. Lagudis stated that the Shelter Island Heights Property Owners Association does not support the variance because in principle there was a breach and the Association believes in the code, and enforcement. Therefore, this variance would not be supported.

Mr. Bennett, attorney for Mr. Anderson, said the Heights submissions that would support a denial of this variance were made in a conclusory fashion. Mr. Bennett said that the Heights Association needed to demonstrate proof and there is no real proof to the negative effect of area. Mr. Bennett went on to say that some of the hardship is self-created, but that does not in itself require a denial of this variance.

Mr. Bennett, Anderson's attorney, requested an adjournment so his party can meet with his neighbor and looks forward to seeing this landscaping plan between Mr. Barr and Mr.

Anderson. Mr. Bennett confirmed to Member D'Orio that Mr. Bennett did say they would address the sound attenuation.

Chairman Doug Matz stated to Mr. Bennett that Mr. Barr is being affected by noise from the pool. Mr. Anderson and Mr. Barr should meet with an architect and an agreement needs to be reached.

Hearing was left open until the March 23, 2016, so Anderson and Barr can meet and get their landscaping plan proposal together.

Borthwick 09-15

A hearing on the application of John and Blair Borthwick for a variance at 71 Nostrand Parkway, Shelter Island, NY, which is Zone "AA reverting to A-Residential" on the Shelter Island Zoning Map, and specifically described on the Suffolk County Tax Map as 0700/13/01/06&07. Applicant seeks a special permit pursuant to Section 133-23(B) to reconstruct a nonconforming house which is 7.5' from the side yard line instead of the required 20' accessory building setback. All persons wishing to be heard should appear at the aforementioned times and place.

Correspondence received:

Letter dated, January 13, 2016, from Alexander Doman, having no objection to this application.

Mr. Bennett representing the Borthwicks, submitted updated renderings to the ZBA. The project architect, Juergen Riehm, was also present. Mr. Bennett reviewed the survey with the Board. Mr. Bennett stated that his clients, Borthwicks, want to merge the two lots and get rid of the lot line. Mr. Bennett stated that the Borthwick's, will remove the decking and the pool on the accessory building and it reduces density and there is no kitchen. Mr. Borthwick stated that this property will be a one family dwelling with one accessory sleeping quarter building. The Borthwicks will end up reducing the square footage by 850 square feet. Mr. Bennett. Borthwick's attorney stated that the building department said that the Borthwicks will need a special permit. Mr. Bennett says by erasing the lot line he does not see a need for a special permit. If we do need one, we will apply for one.

Mr. Bennett also said that we are in harmony with the code.

Member Phil D'Orio asked if this construction is in the permitted construction zone. Mr. Bennett answered that there is no non conformity. It is a reduction. We are here just for the accessory matter.

Chairman Doug Matz stated that ZBA needs to okay this application for the Planning Board to approve the lot line change.

Juergen Riehm, the architect, went over the plans with the Board. Riehm showed that they are moving and reducing spaces in the building. Riehm went on to show that there is a third floor attic with a bedroom and a bathroom. Riehm said they will be taking it out and making all open space, high ceiling, so the third floor will be all open to the underneath.

Chairman Matz asked if the generator and air conditioning units are pre-existing. Chairman Matz said it should be included in the variance. Mr. Bennett said the Suffolk County Health Department has approved this whole project. Chairman Matz wants to make sure that the building's pool equipment is in the building envelope. So there is no question in the future.

The hearing was closed, left open for written correspondence only until February 3, 2016.

Kanarvogel 01-16

A hearing on the application of Mark and Mary Kanarvogel for a special permit at 39 Stearns Point Road, Shelter Island, NY, which is Zone "AA-Residential" on the Shelter Island Zoning Map, and specifically described on the Suffolk County Tax Map as 0700/13/02/38. Applicant seeks a special permit pursuant to Section 133-23(B) to reconstruct a nonconforming house which is 42.1 from the front yard line instead of the required 50' setback, and 6.6' varying to 23.8' from the side yard line instead of the required 30' setback.

Correspondence Received:

None.

Mrs. Kanarvogel stated that her and her husband bought the property 15 years in anticipation of their children growing older and moving out. Mrs. Kanarvogel stated that time has come and they would like to make this their home. Mrs. Kanarvogel said we are seeking a variance to renovate the existing structure without changing the footprint and this variance will not have adverse effects to the surrounding homes.

Member D'Orio asked if the Kanarvogels' will be going up or out with the structure. Mrs. Kanarvogel said no. Chairman Matz asked if they were renovating more than 50%. Mrs. Kanarvogel stated that we are renovating more than 50%. Members Colligan and Johnston asked if you are adding air conditioner units, generators, or a pool. Mark Kanarvogel stated they may add an air conditioning unit in the future. The ZBA said there is enough room in the setbacks to do so and would not include the AC in the application being considered.

The hearing was closed, left open for written correspondence only until February 3, 2016.

Michel 02-16

A hearing on the application of Katherine Michel for multiple variances at 24 Wesley Avenue, Shelter Island Heights, NY, which is Zone “AA-Residential” on the Shelter Island Zoning Map, and specifically described on the Suffolk County Tax Map as 0700/05/02/015. Applicant seeks variances pursuant to Section 133-6(B) to construct a bay window, trash enclosure and brick patio 3’ varying to 8.6’ from the southerly property line, an air conditioner and steps varying 4.4’ varying to 8.9’ from the easterly property line, and a patio 17.1’ from the westerly property line instead of the allowed 25’ side yard and 40’ front yard setbacks. Applicant also seeks relief from the allowed 40% lot coverage to a proposed 48.6% lot coverage.

Michel and their representatives were not in attendance at the meeting. The clerk will inform them to re-notice for the February 24, 2016 hearing.

Next work session – February 10, 2016

Next hearing – February 24, 2016

Close: 8:50 PM

Respectfully Submitted,

Jeanette Flynn