

The regular monthly meeting of the Shelter Island Zoning Board of Appeals was held on December 16, 2015, 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, Dennis Langlois, Mary Wilson, Greg Anderson, Bailey Larkin, John Bennett, Albert D'Agostino, Cathy Driscoll, Juergen Riehm

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

Minutes from December 2, 2015 Work Session were approved.

Resolutions:

Langlois 07-15 DENIED 5(DM, WJ, PD, LC, NR) -0-0

Hakim 08-15 APPROVED 4 (DM,WJ, PD, LC, NR) -0-0

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.

Mr. D'Agostino representing the Watts' agrees generator, that is set on a pad and is in front yard setback. Mr. D' Agostino states the generator, located at 30' instead of 40' from property line was installed in early 2014. Mr. D'Agostino also said that south of the property, neighbors don't want generator located to south, near their property, and have submitted letters supporting the variance. Agree pool equipment intrudes into setback.

Mr. D'Agostino requested a foil through the Town Clerk to find out when the zone changed from AA to A. He has not heard back yet. He also requested some information from the building department regarding when generators needed building permit. Watts moved into their home November of 2013. The closing was January of 2014. Work on the generator was after closing.

There was an inspection on Nov 1, 2013 and no notes in file regarding the violation then. Mr. D'Agostino also noted that there was a February, 2014 change in definition of structure and not sure of nature of change.

Mr. D'Agostino then offered to install noise control devices on condition that when unit is replaced it be moved to conforming location. He also asked to have record kept open to collect missing town information.

Member Phil D'Orio suggests moving generator near the pool equipment. D'Agostino responded that it may impact Carraciolas, who are the Watts neighbors.

Carraciolas speak from the audience. They state that they support variance. The current location is not visible. They don't want it moved closer to them and they would be adversely affected if variance is denied.

Mary Wilson addressed generator permits, stating that generators have required building permits prior to 2014.

Town Attorney, Laury Dowd says definition of structure only added to underground tanks. That does not affect generators.

Chairman Doug Matz stated the contractor that installed generator is licensed. Mr. D'Agostino replied that he is still trying to confirm contractor installation date.

The hearing was left open until January 20, 2016, for additional comments.

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: Letter dated, November 20, 2016, Suffolk County, referring the application back to town for local determination.

Applicant wants to have pool 32' from FY line instead of 40' FY setback.

John Bennett, representing the Andersons, submits cover letter, memo of law and exhibits to ZBA. Mr. Bennett stated that when seeking to maintain existing structure, the variance is appropriate because property is limited by 3 front yards. He believes the ZBA would approved it because of that reason. The Andersons obtained a permit in 2013.

Mr. Bennett stated that the detriment to owner is much greater than any detriment to neighbors.

Mr. Bennett went over Exhibit A, which he says shows there is no structural issues with location of pool. Mr. Bennett also said the town engineer could inspect property and pool integrity.

Mr. Bennett went on to show Exhibit D, which is the landscape plan. This plan tries to screen pool from view and is not visible from road. This area is steep and has dramatic topography.

Mr. Anderson also states that the impact is minimal.

Mr. Bennett went over Exhibit B next. The pool cost one hundred and seventy thousand dollars without landscaping. He then showed Exhibit C and stated that removal and relocation of pool will cost two hundred and twenty thousand dollars.

Mr. Anderson is open to investigate sound barrier per neighbor Barr's request. Mr. Bennett questioned if existing or conforming location would have any impact on Mr. Barr's noise concerns. Mr. Bennett and Mr. Anderson said they would reach out to Mr. Barr. They would need hearing held open.

Mr. Bennett spoke to ZBA having to identify neighborhood hardship if the application is denied. Mr. Bennett opined that the purpose of setbacks is to ensure light, air and buffer adjoining properties. He referenced tax map which shows Lot 8. This lot is sterilized from development, so no buffer needed for that. Mr. Bennett attaches deed sterilizing and granting Andersons a scenic easement. Mr. Bennett states that in this case, pool won't impact nearest property.

Mr. Bennett ended by saying this was a builder's error and there is no benefit or need to move pool 7'. There is no environmental harm or neighbor detriment in current pool location.

Applicant, Greg Anderson stated that he accepts responsibility. Mr. Anderson says it was not done intentionally. He managed this project himself and thought his rear yard was Prospect Avenue. He had a building department permit. He also stated that he sought clarification on permit because of scratched out numbers for front and rear yard, but never realized that he had three front yards. He then told surveyor to stake pool based on building permit. Mr. Anderson had issues with the contractor and it was a difficult project that took over a year to complete.

Mr. Anderson said he had to make adjustments to accommodate deck concrete foundation and pool was not constructed as contracted for. Mr. Anderson reiterated that it was not intentional and requests variance.

Member Will Johnson asks about road runoff and even with installed landscaping there is still runoff problem. Member Phil D'Orio agrees there is debris in road after large rains. Mr. Bennett says will look for mitigations.

Chairman Doug Matz asked if pool was staked and inspected. He went on to say ask, how could the pool have been built in wrong place. That's why contractors have insurance.

Chris Tehan from the building department stated there is no inspection process and the area is supposed to be staked by licensed surveyor. Permit said had it to adhere to 40' setback. Says building department assumes surveyor knows what he is doing. Building

department was never notified by the Andersons that the project had to be moved. Mr. Tehan ended by saying there was room to decrease patio width and that there was a lot going on without anybody's knowledge. So there was no inspection of staking.

Mr. Bennett answered, saying this is a horrible position to be in, would have preferred pool be put in correct location. Mr. Bennett said the ZBA has to do the weighing.

Chairman Doug Matz argues that it can't be allow to build first and ask permission second.

Member Phil D'Orio asks if pool was staked per building permit. Anderson said that he told surveyor to change from building permit plan to put at 32' (in writing) based on his understanding of what rear yard setback was. Surveyor did what he was asked to do.

Member Phil D'Orio also said lots of mulch washes down, more mulch than landscaping on that bluff. Mr. Bennett will investigate suggests holding plant material in place with matting. He submits photo showing that topography created very steep grade even before putting pool in.

Audience member, Tim Purtell, asks to have Heights review vegetative plan before submitted.

ZBA debates whether there is a change in bank slope and reasons for increased runoff.

Chairman Doug Matz concerned that:

1. did not build what applied for.
2. Mr. Barr wants to build house, so is precedent for neighbor to locate pool in violation of code?

Mr. Bennett responds that relief may be warranted, so future property owner may get variance to do something similar.

The hearing was left open until January 20, 2016, for additional comments.

Ihne 04-15

Chairman Doug Matz reports that he reached out to the Ihnes to suggest a re redesign of garage proposal. Mrs. Ihne was upset. Chairman Doug Matz explained that the ZBA wanted to work with her rather than deny the application outright. He is waiting for call back from husband.

Next work session – January 13, 2016

Next hearing – January 20, 2016

Close: 8:40 PM

Respectfully Submitted,

Jeanette Flynn