

A meeting of the Township of Hamilton Zoning Board of Adjustment was held on the above date with Chairperson, Frank Tomasello presiding. Members present were Wayne Choyce, Eduardo Freire, Kathi Lentz, Bruce Strigh, and Elaine Valentino. Also present was Steven Maimon, Zoning Officer, and Robert Cooper, Zoning Board Solicitor.

The statement of compliance was read.

Approval of Minutes – Mr. Choyce moved, seconded by Mr. Freire to approve the June 28, 2010 Zoning Board of Adjustment minutes. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING “AYE,” NO “NAY,” AND TWO “ABSTAINS.”

Mr. Cooper brought up an issue with Alternate Zoning Board Member, Wayne Cain. He said that Mr. Cain is currently in the process of building a home within Hamilton Township; however until the project is complete he will be residing in a different municipality; therefore, will be ineligible to remain a member of the Zoning Board of Adjustment during this four to five month process. It was also mentioned that his term on the Board is only for one year; therefore it may be best to seek a replacement rather than keep his spot vacant for his new house to be complete.

Jim & Judy Link – Solicitor, Robert Cooper verified that the proof package has been executed properly and property taxes are current.

App. #9-10, Jim & Judy Link of Block 723, Lot 19 located at 676 Park Road were both present and seeking a variance for a front yard setback to construct several additions to their existing single family home. Mr. Link testified that the soul purpose of having these additions would be to enhance the structural integrity of their home which was built over a hundred years ago, in addition to creating a place where he and his wife can retire and reside on the first floor and leave the second floor for their kids and grandkids. Mr. Link stated that the addition would add a wing out the back and also out the north and south sides of the house. He stated that the front part of the dwelling would be left untouched.

Mr. Link gave Mr. Cooper photos and a key, which he labeled as Exhibits A-1 through A-7. These photos were for the Board to see how the house looks now so they can understand better how it will compare to how it will look after constructing these additions. Mr. Link explained that each of these additions will be like individual buildings, reinforcing the strength of their older home.

Mr. Link also stated that he feels that these additions will not only increase the property value of his own property, but also his neighboring properties. With that he feels that by granting this variance it will also provide a more desirable visual environment.

Mr. Link stated that he and his wife are also members of the Colonial Williamsburg Foundation and the house they currently live in is very synonymous of a particular home in Colonial Williamsburg. He feels that by adding to it, they will be adding a bit more of a Georgian-flavor to it where everything is a bit more symmetrical, similar to houses built in the 18th century. He also stated that these additions are going to promote the conservation of energy by using the maximum amount of insulation and modern materials.

Mr. Link stated that he and his wife feel it will not impact the intent and purpose of the Zoning Ordinance, and it, hopefully, will encourage development of lands within the Township to represent the character of not only the neighborhood, but Township, as well.

Mr. Freire commented that he noticed an issue on the plan that should be addressed regarding where the measurements were taken from. Mr. Freire pointed out

that Mr. Link took his measurements from the actual structure rather than from the front step, as it should have been. It is already a non-conforming use, since the structure does not meet the required setbacks, so Mr. Cooper advised that the variance be granted to bring this non-conforming structure into compliance with the Zoning Ordinance using the correct measurements from the first step. Mr. Freire then stated that he took the liberty to go ahead and measure it upon his inspection of the property and said it was 36 feet from the front step to the curb line.

Mr. Choyce complimented Mr. and Mrs. Link on the design and feels it is very nice especially since the front of the house will be on the same plane, which he feels will minimize any impact that renovations may have on the neighborhood.

Ms. Valentino asked what the height of the ceiling on the first floor is. Mr. Link answered that it is nine feet. She then asked if the additions were going to also be nine feet. Mr. Link answered that they will. She also asked how many kitchens they intended to have in the house. Mr. Link answered there would still only be one. In addition she asked him to verify that there is no intention to change this home from a single family home into a duplex and Mr. and Mrs. Link agreed that this is correct.

Chairperson, Frank Tomasello, opened the hearing to public comment, and there was no response. Mr. Strigh moved, seconded by Mr. Freire to close the public portion of the hearing. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Mr. Friere moved, seconded by Mr. Choyce on App. #9-10; Block 723, Lot 19 located at 676 Park Road to approve a variance for a front yard setback of 36 feet where 50 feet is required to permit for the construction of several additions to their existing single family home.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CHOYCE – AYE	MR. FREIRE – AYE	MS. LENTZ – AYE
MR. STRIGH – AYE	MS. VALENTINO – AYE	MR. TOMASELLO – AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made the following comments regarding their vote on the above motion:

MR. CHOYCE: I vote yes. I see no negative impact with what the Link's are proposing. I do see a lot of positive things coming to the neighborhood with the renovations being proposed.

MR. FREIRE: I vote yes for reasons previously stated.

MS. LENTZ: I vote yes for reasons previously stated.

MR. STRIGH: I vote yes for reasons previously stated.

MS. VALENTINO: I vote yes for reasons previously stated.

MR. TOMASELLO: I also vote yes. I agree with Mr. Choyce that there will not be any negative impacts from what is being proposed, but quite a few positive impacts. This is going to be an addition to an existing, over hundred year old house that's going to be in conformity with the current pre-existing footprint of the building itself. It will be recreated in a fashion to look as if it was built that way over a hundred years ago, which will be a great asset to this community.

Keith Morganweck – Solicitor, Robert Cooper verified that the proof package has been executed properly and property taxes are current.

Mr. Morganweck of App. #10-10 was present and stated that he is seeking a variance from the front yard setback requirements to permit for the construction of a 12 foot by 24 foot screened porch addition to his single family dwelling which is located on a corner lot. His property is Block 699, Lot 2 located at 6201 Quinn Avenue. Mr. Morganweck also clarified that the footprint of the proposed addition will be no larger than the footprint of the existing concrete pad.

Mr. Morganweck stated that he would like this porch area for his family to enjoy it and also feels it will increase the property value of his home. A few members of the Board stated that they inspected the property and noticed that most of the work was complete at this point, with the exception of it being screened in and a knee wall. Mr. Morganweck said that he did most of the work before his neighbor informed him that he was required to obtain a zoning permit.

Mr. Freire asked Mr. Morganweck to clarify this a bit. Mr. Morganweck stated that there was an aluminum covered porch at one point in time, but when he bought the house, the porch was removed and there was only a concrete pad.

Wayne Choyce asked Mr. Maimon what the side yard setback would be if this house was not situated on a corner lot. Mr. Maimon responded that it would only require 10 feet. Mr. Maimon elaborated on this by stating that this area used to be zoned differently before it was changed by the Planning Board. Whichever corner of the house was closest to the street used to be considered the front yard and the other sides were considered side yards.

Mr. Freire pointed out that this concrete pad was at one time a conforming use and is now considered a non-conforming use. He also stated that Mr. Morganweck would not be expanding the porch area, but he is only asking to enclose it.

Mr. Morganweck presented the Board with some photos at this point which were labeled as A-1 and A-2.

Mr. Freire asked Mr. Morganweck to verify that this was only going to be screened in and would not be a separate area for living quarters. Mr. Morganweck agreed that it was only going to be used as a porch, not a separate living space.

Mr. Cooper asked if this porch would be heated. Mr. Morganweck explained that it would not be heated, but there is an electrical outlet for electricity on the outside of his house that will be in the screened in porch area.

Mr. Freire pointed out that the house is well maintained and the porch does keep with the local character of this particular area. He also stated that he did see other homes nearby with similar porches, patios and decks. Mr. Choyce added that about a block away there is a home with a garage that is less than ten feet of the curb line.

Mr. Choyce pointed out that technically, since he is situated on a corner, Mr. Morganweck needs two front yard setback variances. Mr. Cooper agreed that this was correct.

Mr. Tomasello opened this part of the hearing to the public for comment and there was no response. Mr. Strigh moved, seconded by Mr. Freire to close the public portion of the hearing. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Mr. Freire moved, seconded by Mr. Choyce on App. #10-10 on Block 699, Lot 2 located at 6201 Quinn Avenue, to grant two front yard setback variances. The front yard

setback variance permitted on Reading Avenue is 15 ft +/- 1 ft. The front yard setback variance permitted for Quinn Avenue is 28 ft +/- 1 ft.

ROLL CALL ON THE ABOVE MOTION:

MR. CHOYCE – AYE MR. FREIRE – AYE MS. LENTZ – AYE
MR. STRIGH – AYE MS. VALENTINO – AYE MR. TOMASELLO – AYE
SAID MOTION CARRIED.

NOTE: The following Board Members made the following comments regarding the above motion:

MR. CHOYCE: I vote yes because I feel we have a bit of a hardship here with the geography of the lot being on a corner. Also, being this concrete pad was at one time conforming to our Zoning Ordinance and now it is a pre-existing, non-conforming structure there are many hardships for the owner to deal with here. So, with that said, I see nothing negative regarding screening it in and placing a roof over it.

MR. FREIRE: I vote yes for the same reasons Mr. Choyce pointed out.

MS. LENTZ: I vote yes.

MR. STRIGH: I vote yes.

MS. VALENTINO: I vote yes.

MR. TOMASELLO: I vote yes. Traditionally, this Board has been recognized when the owner has to deal with a hardship pertaining to a particular piece of property. The case here is this lot consists of two front yards. Additionally, as pointed out by Mr. Choyce, this property would not have required a variance at the time the house was built with the law that was in existence at that time. Essentially, the owner will be re-constructing something that already existed at one point in time. It would seem to be in conformity with the characteristics of the neighborhood, as well. I also feel it will be a positive addition to this property with no negative impacts to the Zoning plan or intent, so I vote yes.

Gary Carlson – Solicitor, Robert Cooper, verified that the proof package has been executed properly, and property taxes are current.

Applicant, Gary Carlson of App. #11-10 on Block 207, Lot 1 located at 7330 First Avenue was present and testified that he is seeking a variance to permit for the construction of an 11 foot by 80 foot ground mounted solar panel array in a portion of the front yard area of a corner lot.

Mr. Carlson explained that he owns 5.17 acres of land in the Weymouth section of town, which is mostly wooded. He expressed his interest in making his home more “green” by adding solar panels to it, but they would have to be on the side of his yard facing toward the McCall Avenue side. He stated that his property is shielded by about 150 ft. of woods, so it would not be easily seen from the road. He also stated that he has photos that he would like to show the Board to give them a better idea of what he is talking about.

Mr. Cooper labeled these photos as A-1 through A-5.

Mr. Tomasello clarified that the only issue with this proposal is that it is an accessory use in the front yard. Mr. Maimon agreed that this is correct because the applicant is on a corner lot, so he technically has two front yards. Mr. Tomasello pointed

out that he meets setbacks. Mr. Maimon pointed out that he also meets lot coverage and all other zoning requirements.

Mr. Choyce stated that where the solar panels are proposed to go is already a cleared area, so he wouldn't have to remove any trees. Mr. Carlson agreed that he would not need to clear trees, but may need to trim a few tree tops.

Mr. Choyce also stated that when he visited Mr. Carlson's house over the weekend, he could not see the area that Mr. Carlson is proposing to place these panels from the road. Mr. Choyce stated that this area was not really visible until he was right at Mr. Carlson's driveway. He stated the wooded area surrounding the property really creates a nice barrier from the road.

Mr. Valentino asked the height of the solar panels. Mr. Carlson answered that they are approximately nine feet high.

Mr. Carlson stated that he is looking to have the panels placed in over two phases. The first would be for the first 10 megawatts and the second for the other ten megawatts since he uses about 24,000 kilowatts per year.

Ms. Valentino asked if Mr. Carlson would consider placing the panels on his roof. Mr. Carlson explained that as a firefighter, he has some personal safety concerns about having them on the roof. He says there are instances when firefighters have to ventilate the roof if there were a fire. In addition, he stated that there is stored energy in them which could create an even worse scenario if there was ever a fire. He also considered the heavy cost associated with replacing the roof with the solar panels on it.

Ms. Valentino asked Mr. Carlson about what percentage he is planning to use for his own personal use versus what he is going to sell back to the electric company. Mr. Carlson stated that he is planning to use one-hundred percent of the power generated from the solar panels.

Ms. Valentino asked how large Mr. Carlson's house is. Mr. Carlson replied that his house is between 2,400 and 2,500 sq. ft. Ms. Valentino expressed that she feels this is a very large area of solar panels for it to only be for Mr. Carlson's personal use. Mr. Freire stated that he also has solar panels that produce about ten megawatts and it only covers about half of his electric needs; therefore, feels this is probably accurate.

Mr. Choyce also stated that with where he is situated, he probably won't be getting a pure southerly exposure, which is needed to get the most out of having solar panels.

Mr. Freire also pointed out that the solar panels will be facing his own home rather than a neighbor's property, so any reflections given off will be facing his own home. Mr. Choyce stated that even if there were reflections, they probably would not be a problem due to the large barrier surrounding his property.

Mr. Tomasello opened this part of the hearing to the public for comment and there was no response. Mr. Strigh moved, seconded by Mr. Choyce to close the public portion of the hearing. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Mr. Freire moved, seconded by Ms. Lentz for App. #11-10 on Block 207, Lot 1, located at 7330 First Avenue, to grant a variance to permit an accessory structure, solar panels only, in the front yard area. The setback requirements pertaining to this variance include 155 ft +/- 10 ft from McCall Avenue and 180 ft +/- 10 ft from First Avenue. The size of this array of panels permitted is 11 ft by 80 ft.

ROLL CALL ON THE ABOVE MOTION:

MR. CHOYCE – AYE MR. FREIRE – AYE MS. LENTZ – AYE
MR. STRIGH – AYE MS. VALENTINO – AYE MR. TOMASELLO – AYE
SAID MOTION CARRIED.

NOTE: The following Board Members made the following comments on the above motion:

MR. CHOYCE: We have an applicant with a corner lot, who has a bit of a hardship since he technically has two front yards. So, given the geography and how densely wooded the property is, I don't feel that what is being proposed is going to negatively affect those in the neighborhood.

MR. FREIRE: I vote yes for the same reasons Mr. Choyce pointed out.

MS. LENTZ: I vote yes for the same reasons.

MR. STRIGH: I vote yes.

MS. VALENTINO: I vote yes.

MR. TOMASELLO: I vote yes. Traditionally this Board has been recognized for those having technicalities such as this where the applicant has two front yards. The statutes have noted that alternative energy sources are something we all should be trying to promote. Mr. Carlson should be congratulated for extending this in our community. It is also a wooded property, which will be difficult to see from anywhere but inside Mr. Carlson's property. The positive criteria certainly outweigh the negative, so I vote yes.

Memorialization of Resolutions – Mr. Choyce moved, seconded by Mr. Freire to adopt the resolution for App. #6-10, Mark and Fran Ludwick on Block 836, Lot 3.

ROLL CALL:

MR. CHOYCE – AYE MR. FREIRE – AYE MR. RAFF – AYE
MS. LENTZ – AYE MR. TOMASELLO – AYE

Mr. Choyce moved, seconded by Ms. Lentz to adopt the resolution for App.#7-10, Gordon Craig on Block 1101, Lot 8.08.

ROLL CALL:

MR. CHOYCE – AYE MR. RAFF – AYE MS. LENTZ – AYE
MR. TOMASELLO – AYE

Public Comment – Chairperson, Frank Tomasello opened the hearing to public comment, and there was no response. Mr. Choyce moved, seconded by Mr. Strigh to close the public portion of the hearing. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Rules and Procedures - Mr. Tomasello asked if any members of the Board had any comments to make on the Rules and Procedures. Mr. Friere commented on Article 4, Section 1, stating that he feels it might be best to change the order of the meeting so the applicants are heard first and then the Board handles Announcements, Approval of Minutes, and Memorialization of Resolutions at the end of the meeting. Mr. Cooper agreed that in his experience, this is typically the order most municipalities have their meetings so the applicants and public can be heard without having to sit through other Board business that they may not be interested in.

Mr. Tomasello asked if the amended Rules and Procedures with the discussed changes, as presented, were acceptable. Mr. Strigh moved, seconded by Mr. Choyce to adopt the amended Rules and Procedures.

SAID MOTION CARRIED WITH THOSE MEMBERS VOTING, "AYE," NO "NAY," NO "ABSTAIN."

At this time, Mr. Freire asked the Board about their idea to move forward with only accepting RFP's that are in electronic form, as opposed to the traditional giant box of cardboard filled with paper applications that is typically received from each applicant. Mr. Freire also pointed out that this coming year there may be a lot more applications, due to the poor economy, which is even a bigger incentive to make this change now. The Board agreed that this would be beneficial and agreed to address it to the Township Committee via a letter that Mr. Freire offered to compose asking the status of where they are in this process, and for an update, so this change can be made in enough time for the professionals to be aware of it.

Adjournment - Mr. Strigh moved, seconded by Mr. Freire to adjourn the Zoning Board of Adjustment meeting. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Respectfully submitted,

Jeanne M. Parkinson
Zoning Board of Adjustment

This entire meeting was recorded. The compact disc is on file in the Zoning Office and may be reviewed by interested persons during regular business hours.

