

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, Werner Raff, Bruce Strigh, Elaine Valentino, and Alternate Member, Wayne Cain. Solicitor, Robert Cooper and Zoning Officer, Steve Maimon were also present.

The Statement of Compliance was read.

Announcements – There were no announcements this evening.

Stephen DeSario – App. #21-10; Block 494, Lot 73 located on 6317 Indiana Avenue was present and seeking a front yard variance for the construction of an addition attached to his single family home.

Solicitor, Robert Cooper verified that the proof package had been executed properly and property taxes are current.

Chairperson, Frank Tomasello asked Mr. DeSario what he is intending to do on his property. Mr. DeSario replied that he would like to construct a 22' x 36' bedroom in addition to a 19' x 16' garage attached to his single family home. Mr. DeSario explained to the Board that he is a single father with an ill, elderly mother who lives with him. He also stated that he has been living in the house since 1995 when he purchased it and has outgrown it, since then.

Mr. Tomasello asked Mr. DeSario if he had photos of his property to show the Board. Mr. DeSario said he did and handed Mr. Tomasello 3 photos that were marked as follows:

- A-1: Photo showing the side of the home
- A-2: Photo showing the front/ side of the home
- A-3: Photo depicting the front of the house

Mr. Tomasello asked Mr. DeSario when his house was built. Mr. DeSario stated that it was built in 1974. Mr. Tomasello determined that the house pre-dates the zoning in that area making it an existing, non-conforming dwelling.

Mr. Tomasello asked if the house was still going to remain a one-story home and Mr. DeSario answered in the affirmative.

Mr. Tomasello asked if Mr. DeSario was intending to create an additional entrance into the new addition. Mr. DeSario replied that he currently has a front and side entrance which will remain the same with no additional entrances added.

Mr. Choyce stated that he had the opportunity to visit this property and stated that the undeveloped street along the side/ rear of his property was what caused some confusion with this application.

Mr. Friere stated that the application should be amended to bring the property into conformity since it is deemed with having a double frontage lot. Mr. Cooper agreed and stated if the Board grants 2 front yard variances for setbacks, Mr. DeSario has plenty of acreage and would have no problem meeting lot coverage for this application.

Mr. Tomasello opened this portion of the hearing for public comment and there was no response. Mr. Choyce moved, seconded by Mr. Raff 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, to grant Stephen DeSario on Block 494, Lot 73 two front yard setback variances on a double frontage lot that include 51.8 feet +/- one foot where 200 feet is required along Indiana Avenue. Also, a setback variance along Richland Avenue was granted for 30.9 feet +/- one foot along Richland Avenue where 200 feet is required.

ROLL CALL ON THE ABOVE MOTION:

MR. CHOYCE – AYE
MR. RAFF – AYE

MR. FREIRE – AYE
MR. STRIGH – AYE

MS. LENTZ – 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: Again, we have a property that has, technically, two front yards and a dwelling that is a non-conforming existing condition. Testimony from the applicant has stated that the new construction he plans will not infringe on those pre-existing conditions, so I vote yes.

Mr. Freire: I vote yes for the same reasons that Mr. Choyce pointed out.

Ms. Lentz: I vote yes.

Mr. Raff: I vote yes. The applicant has testified that the home pre-existed the change in the zoning and it is an existing, non-conforming use. I vote yes.

Mr. Strigh: I vote yes for the reasons previously stated.

Ms. Valentino: I vote yes for the reasons previously stated.

Mr. Tomasello: I'll also vote yes, noting the unique situation we have with two front yards creating a problem. In addition, we have a structure that pre-dates the implementation of zoning in this Township and a house that has a pre-existing, non-conforming setback. However, the addition proposed by the applicant would in no way further infringe on that non-conformity. I think the negative impact will be negligible. Also, the benefits to the homeowner would be a positive and would outweigh the negative and I believe the applicant is entitled to the relief.

Kevin Tunney – App. #24-10 of Block 588, Lot 29.03 located at 940 McGeary Place is seeking a variance to erect a fence that exceeds the permitted height.

Solicitor, Robert Cooper verified that the proof package had been executed properly and property taxes are current.

Mr. Tomasello asked Mr. Tunney if he had photos to show the Board. Mr. Tunney did and handed Mr. Tomasello 7 photos which were labeled as follows:

- A-1: Photo depicting the paper street, Harbertown Road
- A-2: Photo depicting paper street, Harbertown Road
- A-3: Photo depicting paper street, Harbertown Road
- A-4: Photo depicting how overgrown, paper street, Harbertown Road is
- A-5: Photo depicting how overgrown, paper street, Harbertown Road is
- A-6: Photo depicting how overgrown paper street, Harbertown Road is
- A-7: Photo depicting how overgrown paper street, Harbertown Road is

Mr. Tomasello asked Mr. Tunney to discuss his application. Mr. Tunney stated that he would like to erect this fence because he has a problem with deer having access to his property and eating up everything that is planted. Mr. Tunney stated that he has noticed that a lot of farms tend to use 6 foot fences so he felt it would be best for his situation.

Mr. Tomasello asked what type of material Mr. Tunney is going to use for this fence. Mr. Tunney stated that he is proposing to use a chain linked, galvanized fence.

Mr. Tomasello asked Mr. Maimon to clarify that the only issue Mr. Tunney has that is stopping him from erecting the fence is that he technically has 2 front yards since Harbertown Road is a paper street which runs right along the rear of his property. Mr. Maimon agreed that this was the correct.

Mr. Choyce asked Mr. Tunney who the owner of the land is on the other side of Harbertown Road behind his property. Mr. Tunney stated that he believes it is owned by the Township of Hamilton. Mr. Choyce asked if the land was ever going to be developable. Mr. Tunney stated that it is all wetlands back there and it will never be able to be developed. Mr. Raff attested that it is all wetlands in that area.

Mr. Choyce noted that he visited this property and noticed that one of his neighbors a few doors down had a 6 foot fence installed along their rear property. He pointed out that Mr. Tunney's fence, therefore, would not be out of the ordinary in the neighborhood. Mr. Freire agreed.

Mr. Tomasello opened this portion of the hearing for public comment and there was no response. Mr. Raff 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."

Mr. Raff moved, seconded by Mr. Choyce, on App. #24-10 on Block 588, Lot 29.03 to grant a variance to allow the erection of a 6 foot fence in the front yard area of a double frontage lot.

ROLL CALL ON THE ABOVE MOTION:

MR. CHOYCE: AYE	MR. FREIRE: AYE	MS. LENTZ: AYE
MR. RAFF: 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: Again, we have a property with two front yards and through testimony from the applicant, the rear of the property on Harbertown Road, even though it is a tax map road, it is an undeveloped road, and in all likelihood, it will never be developed because of protected lands behind the applicant's property. I vote yes.

Mr. Freire: I vote yes.

Ms. Lentz: I vote yes.

Mr. Raff: I vote yes.

Mr. Strigh: I vote yes for the previously stated reasons.

Ms. Valentino: I vote yes for the reasons previously stated.

Mr. Tomasello: I vote yes for the reasons stated by Mr. Choyce.

Michael Hazard – App. #25-10 located on Block 864, Lot 8 was present and seeking a variance for a rear yard setback to allow for the construction of a roof to be constructed over an existing concrete pad.

Solicitor, Robert Cooper verified that the proof package had been executed properly and property taxes are current.

Mr. Tomasello asked Mr. Hazard to discuss what he is intending to do on his property. Mr. Hazard stated that a few years ago he put a concrete pad off the back of his house and now he is looking to place a roof over it. Mr. Tomasello asked Mr. Hazard when he put the pad down. Mr. Hazard responded that it was about a year and a half ago. Mr. Tomasello asked whether Mr. Hazard needed to get a variance for the pad. Mr. Hazard said he did not. Mr. Maimon clarified that a concrete pad is considered accessory structure and is not attached to the dwelling where a roof is, which is why the roof needs to meet the setbacks.

Mr. Tomasello asked Mr. Hazard when he built the house. Mr. Hazard said it was built in 2006.

Mr. Freire stated that he had the opportunity to inspect this site and noted that the roof was already constructed over the pad. Mr. Hazard stated that he did not realize the roof would be an issue when he began working on it. He also stated that he would have guessed the actual deck to be the issue, if there was an issue at all with setbacks, etc. He stated that he went to the Construction Office and got a building permit and had the inspections done for the pad alone with no problem and did not realize the roof was going to be a problem until he went back to the Construction Office to get a building permit for the roof. Mr. Hazard stated that this is when they sent him to the Zoning Office for approvals and realized there was an issue.

Mr. Hazard also explained to the Board that he had an extremely difficult time finding a roof for this pad that would fit the dimensions and look nice with the unique way his home and the pad are constructed in the rear. He stated that he took a lot of time to make it look just right and was just going along with it once he found what he liked. Mr. Cooper stressed that it is necessary to have all permits first before taking on any type of construction. Mr. Hazard said he realizes this now and it wasn't his intention to not get a permit. He stated that he wants this done the right way and is not trying to hide anything.

Mr. Choyce stated that he had the opportunity to visit this property and tried to inspect the roof from Columbia Avenue, but had a difficult time seeing it since the home is located in a heavily wooded area. However, he did note that from what he could see, the roof came out really nice and compliments the house very well. Mr. Choyce also pointed out that there is a line of trees which create a nice buffer from his neighbor's property. Mr. Freire added that we are in the winter months now when there is the least foliage, so come summer it will be really hard to see.

Mr. Freire asked Mr. Hazard whether he was looking to screen the deck in at any point in time. Mr. Hazard said he was not planning to enclose the deck.

Mr. Choyce stated that he did not notice any steps going down the back of the deck and asked Mr. Hazard if he was eventually intending to have steps installed. Mr. Hazard stated that he would like to place 2 steps off the back of the deck. Mr. Choyce

stated that the steps would encroach into the setback even more and would require an additional variance which he could request tonight if he wanted.

After some discussion on how the Board would amend the request to allow for a few steps from the deck, the Board determined that an extra 5 feet would be more than enough room to place a few steps off the back of the 14 inch high deck. Mr. Hazard agreed.

Mr. Tomasello opened this portion of the hearing for public 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 Mr. Raff, to grant a variance for a rear yard setback of 170 feet where 200 feet is required on App. # 25-10 located on Block 864, Lot 8. This variance is to allow for the construction of roof to be built over an existing deck, in addition to the construction of steps to be placed off the back of the concrete deck.

ROLL CALL ON THE ABOVE MOTION:

MR. CHOYCE – AYE
MR. RAFF – AYE

MR. FREIRE – AYE
MR. STRIGH – AYE

MS. LENTZ – 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. There is very minimal impact by this proposed amendment and the positive impact to the homeowner, by far, outweighs any negative criterion.

Mr. Freire: I vote yes. I think this deck fits in nicely with the local community and is a nice improvement to the home.

Ms. Lentz: I vote yes for the previously mentioned reasons.

Mr. Raff: I vote yes.

Mr. Strigh: I vote yes for the reasons previously stated.

Ms. Valentino: I vote yes for the reasons previously stated.

Mr. Tomasello: I vote yes for the reasons stated by Mr. Choyce and Mr. Freire.

Alexsandra S. Cokenakes – App. # 26-10 was unable to make the hearing. After some discussion, Chairperson, Frank Tomasello made an announcement that she will have the opportunity to be heard at the January 24, 2011 meeting.

Approval of Minutes – Mr. Freire moved, seconded by Mr. Raff to approve the minutes from the November 22, 2010 meeting. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING “AYE,” NO “NAY,” ONE “ABSTAIN.”

Memorialization of Resolutions – Resolutions prepared by the Solicitor for the following applications from the November 22, 2010 meeting were adopted as follows:

Mr. Raff moved, seconded by Mr. Freire to adopt the resolution for Charles and Michelle Meachon, App. # 19-10, located on Block 996.01, Lot 97.

ROLL CALL ON THE ABOVE MOTION:

MR. CHOYCE – ABSTAIN	MR. FREIRE – AYE	MS. LENTZ – AYE
MR. RAFF – AYE	MS. VALENTINO – AYE	MR. CAIN - AYE
		MR. TOMASELLO – AYE

SAID MOTION CARRIED.

Mr. Raff moved, seconded by Mr. Freire to adopt the resolution for Enrique & Valentina Sepulveda, App. # 20-10, located on Block 974, Lot 1.

ROLL CALL ON THE ABOVE MOTION:

MR. CHOYCE – ABSTAIN	MR. FREIRE – AYE	MS. LENTZ – AYE
MR. RAFF – AYE	MR. STRIGH – AYE	MS. VALENTINO – AYE
	MR. CAIN – AYE	MR. TOMASELLO – AYE

Mr. Strigh moved, seconded by Mr. Raff to adopt the resolution for Romeo Fortis, App. # 27-10, located on Block 712, Lot 4.

ROLL CALL ON THE ABOVE MOTION:

MR. CHOYCE – ABSTAIN	MR. FREIRE – AYE	MS. LENTZ – AYE
MR. RAFF – AYE	MR. STRIGH – AYE	MS. VALENTINO – AYE
	MR. CAIN – AYE	MR. TOMASELLO – AYE

SAID MOTION CARRIED.

Public Comment – Chairperson, Frank Tomasello opened this portion of the meeting for public comment and there was no response. Mr. Raff 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.”

Re-Organization Meeting – Mr. Tomasello asked Board Members for input on how they would like to schedule the re-organization meeting next month. After some discussion, it was decided that the re-organization meeting would be held on January 24, 2011 at 6:30 PM.

Mr. Tomasello also announced that he had asked Mr. Choyce, Mr. Strigh, and Ms. Valentino to research the RFP’s to select the best suited professionals for next year. He noted that they all agreed to take on this responsibility.

Executive Session – At this time Mr. Choyce asked the Board if he could discuss some of the issues that were addressed in last month’s executive session regarding John Pucci, App. #15-10. Mr. Strigh moved, seconded by Mr. Choyce to go into executive session.

After some discussion on John Pucci’s App. #15-10, Mr. Strigh moved, seconded by Mr. Choyce to come out of executive session.

Adjournment – Mr. Choyce moved, seconded by Mr. Raff to adjourn the Zoning Board of Adjustment meeting. SAID MOTION CARRIED WITH THOSE MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Respectfully submitted,

Jeanne M. Parkinson, Secretary
Zoning Board of Adjustment

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