

A meeting of the Township of Hamilton Zoning Board of Adjustment was held on the above date with Chairperson, Frank A. Tomasello, presiding. Members present were Wayne Choyce, Kathi Lentz, Werner Raff, Bruce Strigh, and Elaine Valentino. Wayne Cain was present as an Alternate. Robert A. Cooper, Zoning Board Solicitor and Steven Maimon, Zoning Officer, were also present.

The Statement of Compliance was read.

Approval of Minutes – Mr. Strigh moved, seconded by Mr. Choyce to approve the minutes for the March 22, 2010 Zoning Board of Adjustment meeting. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Edgar & Virginia Kisby and Michael & Eileen Mason – Solicitor, Robert A. Cooper, verified that the proof package has been executed properly and property taxes are current for both applicants. At this time, Mr. Raff recused himself from the hearing for being related to one of the applicants.

Solicitor, Stephen R. Nehmad was present at the meeting and represented Edgar & Virginia Kisby of 94 Gasko Road on Block 996.01, Lot 48 along with Michael & Eileen Mason of 96 Gasko Road on Block 996.01, Lot 49 for the ability to have a 16' x 14' framed deck (with railing and exterior staircase) constructed to the rear of the proposed twin homes they anticipate purchasing (to be constructed). In connection with both of these applications, rear yard setback variances are required. Mr. Creigh Rahencamp, Licensed Planner was also present. The testimony provided by Mr. Rahencamp addressed both Mr. & Mrs. Kisby's application in addition to Michael & Eileen Mason's application.

Stephen Nehmad stated that the Kisby's and Mason's have both lived in Hamilton Township all their lives and wanted to downsize from their large homes into smaller homes within the Tavistock Development. He also stated that these two properties and all of the properties along side of them all back up to a very restricted wetland area where the topography of the land slopes downward, making it difficult to enjoy their rear yard area. He said these decks would provide an open space for these families to better enjoy their home without causing any harm to their neighbors or any surrounding properties.

Mr. Nehmad called upon Mr. Rahencamp to comment. Mr. Rahencamp stated that many of the homes within the Tavistock Development have already been granted with numerous variances from the Board. He also noted that rear and side yard setback variances are meant to be dealt with on a lot by lot basis. He then presented the Board with two exhibits. Mr. Cooper marked them as follows:

- A1- Tavistock subdivision plan illustrating where previous variances were granted, also shows where these new variances are being requested.
- A2- Illustration of the specific dimensions of the elevated deck in relation to the house

Mr. Rahencamp closed his testimony by stating that the construction of these decks would not need lot coverage and would therefore not have any detriments environmentally or to any of the surrounding neighbors. He stated that constructing these decks would allow for optimum enjoyment for these families by allowing them open space considering the sloped topography of the grounds in the rear of their homes.

Ms. Valentino asked if the applicants had any intention of creating a patio under the deck. Mr. Kisby and Mr. Mason both said they did not have any intention of creating a patio under the deck, but only to place pavers down. She also asked if the applicants were considering enclosing the area below the deck in the future. Both applicants testified they did not intend to enclose the area.

Mr. Choyce asked if the applicants would need to seek approval from the Homeowner's Association to put down pavers. The applicants said that they would.

Mr. Cain asked that if based on the approval of these variances, would these applicants be coming back to the Board in the future seeking more variances. Mr. Nehmad said that there are none that they presently know of that they would be seeking in the future.

Mr. Maimon briefly went over his Zoning Officer's Report stating that other than these two rear yard setbacks for these properties, all other aspects of both applications are in compliance with the Zoning Ordinance.

Mr. Tomasello opened the hearing to public comment on the Edgar C. and Virginia Kisby application, and there was no response. Mr. Choyce moved, seconded by Mr. Strigh to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Mr. Choyce moved, seconded by Mr. Strigh, to grant Edgar C. and Virginia Kisby on Block 996.01 Lot 48, located at 94 Gasko Road, a variance not to exceed 11 feet for a rear yard setback to allow for construction of a deck attached to a single family home.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CHOYCE - AYE MS. LENTZ – AYE MR. STRIGH – AYE
MS. VALENTINO – AYE MR. CAIN – 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 feel what is being proposed has no negative impact. Several other properties along that back line have made similar improvements where variances have been granted from this Board. The topography of these rear lots along this rear line is rather severe when being compared to the front yard, making it more difficult for these residents to enjoy their backyard. I feel what is being proposed will allow these residents to fully enjoy the beauty and wildlife in their backyard, so I vote yes.

Ms. Lentz: I vote yes. I concur with my colleague that there is open space behind the dwelling making no negative impact on any neighbors. I think it will make a nice improvement.

Mr. Strigh: I vote yes, echoing Mr. Choyce's comments.

Ms. Valentino: Yes, for the same reasons stated.

Mr. Cain: Yes, for the same reasons stated.

Mr. Tomasello: I will also vote yes and make it unanimous. I think that the applicant has demonstrated adequately that there are no negative impacts to be concerned with. The land abuts to permanently open space. In terms of the Zoning law, I feel it is an amenity that improves the neighborhood. It does not interfere with any neighbors or future neighbors. I am also familiar with the terrain in this area and there is a pronounced drop-off in the back which we've known from various other applications. This improvement would certainly make the units more usable to the contract purchaser.

Mr. Tomasello again opened the hearing for public comment on the Michael P. and Eileen M. Mason application, and there was no response. Mr. Strigh moved, seconded by Ms. Lentz to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Mr. Choyce moved, seconded by Mr. Strigh, to grant Michael P. and Eileen Mason on Block 996.01 Lot 49, located at 96 Gasko Road, a variance not to exceed 11 feet for a rear yard setback for the construction of a deck attached to a single family home.

ROLL CALL ON THE ABOVE MOTION:

MR. CHOYCE – AYE	MS. LENTZ – AYE	MR. STRIGH – AYE
MS. VALENTINO – AYE	MR. CAIN – 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: What is being proposed has no negative impacts on any surrounding properties. There are several other homeowners in that same vicinity that made similar improvements to their properties. The topography difference from their front yard to their rear yard is quite noticeable in this particular area and it does make it difficult for the applicant to enjoy their rear yard. I think this proposed deck will help the applicant to fully enjoy their backyard, so I vote yes.

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. Cain: I vote yes for reasons previously stated.

Mr. Tomasello: Yes, there is a pronounced difference in height and elevation in the rear when compared with the front of the property. This proposed deck will allow them better access and enjoyment of their property. There are no negative impacts for this project being there is nothing but dedicated open space and buffers behind the property. For all those reasons I believe the application should be approved.

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

Applicant, Steven Lutz was present and informed the Board that he is requesting a variance to allow for the erection of a 28' x 28' detached pole barn to be constructed in the front yard portion of his single family home located on a corner lot at 2049 Garden Road on Block 220 Lot 1.02.

Mr. Lutz testified that since he is on a corner lot he is considered to have two front yards which requires him to get a variance for this project. The way the house is situated on the lot prevents him from being able to place the structure in the rear of his yard. In addition, there is a septic tank in the ground below the only other possible spot that would have been appropriate in this instance. Therefore, the only other option was to come in and ask for relief from the Board.

Mr. Lutz presented two Exhibits to the Board. Mr. Cooper marked them as follows:

- A1 – Photos of his home and property
- A2 – A brochure with the specific pole barn model which he intends to place on his property

Mr. Tomasello asked Mr. Lutz how old the house is. Mr. Lutz answered that the house is 28 years old.

Mr. Choyce asked Mr. Maimon what zone the property is in. Mr. Maimon responded that this property is in a FA-70 zone; however, the standards for the RD 2.5 Zone were applied. Mr. Choyce asked how this could be considered a 2.5 zone. Mr. Maimon responded that there are certain exceptions within the Driftwood Lane area and Mr. Lutz's property happens to be one of them.

Mr. Choyce then asked Mr. Lutz if he would be planning to remove any extra trees along the front of the property that would face Driftwood Lane other than what would be required to put up the pole barn. Mr. Lutz responded that he would be cutting down the bare minimum amount of trees. He said there are 12 trees situated exactly where the pole barn is intended to go so those would be the only trees cut down. Mr. Lutz added that there is approximately 200 ft, from his home to Garden Road and approximately 150 ft to Driftwood Lane, making a really nice buffer. He stated that it may not be visible at all in the Spring when everything is in bloom.

Mr. Choyce told the Chair that he did get a chance to go out and review the property and he believes that what Mr. Lutz is telling the Board is true. He stated that the lot is densely populated with trees and agrees that when the foliage is out it will be very difficult to see the garage from either road.

Ms. Valentino asked Mr. Lutz what the difference will be from the pole barn to Garden Road. Mr. Lutz answered it would be roughly 200 ft. Ms. Valentino then asked Mr. Maimon what the setbacks requirements are for this area. Mr. Maimon answered that the setback requirements for an accessory structure would be 20 feet from all property lines. He also reminded the Board that typically the accessory structure would not be in the front yard like in this instance. However, he would be set back much further than the required 20 ft. Ms. Valentino then clarified that the setback for the pole barn will be almost the same setback of his house which is approximately 175 ft. Mr. Lutz agreed that this is correct. Ms. Valentino asked what utilities would service the pole barn. Mr. Lutz responded it would have only basic electricity. Ms. Valentino then asked if the pole barn would be used for strictly residential use. Mr. Lutz answered yes.

Mr. Raff asked if there would be a bathroom facility in the garage. Mr. Lutz answered no. Mr. Raff asked if the pole barn would be rented out to anyone. Mr. Lutz answered it would be strictly for personal use and in no way for commercial use.

Mr. Maimon elaborated that Mr. Lutz agreed for the structure not to exceed 15 feet in height, as it is required in the ordinance. Mr. Lutz testified that this was true.

Mr. Tomasello opened up the hearing for public comment, and there was no response. Mr. Strigh moved, seconded by Mr. Raff to close the public portion of the

hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE, NO “NAY,” NO “ABSTAIN.”

Mr. Raff moved, seconded by Mr. Choyce in the matter of Steven Lutz, to grant a variance for Block 220 Lot 1.02 located at 2049 Garden Road. The variance will allow for a rear yard setback for construction of a 28’ x 28’ detached pole barn in the front yard area of his single family home. The pole barn is required to be constructed exactly how it is shown on the survey by Thomas H. Darcy dated September 28, 2009. The height for this pole barn shall not exceed 15 feet in height from the base to the midpoint of the peak. Also, this structure may only be used as a residential accessory structure.

ROLL CALL VOTE ON THE ABOVE MOTION:

MR. CHOYCE – AYE	MS. LENTZ – AYE	MR. RAFF – AYE
MR. STRIGH – AYE	MS. VALENTINO – AYE	MR. CAIN - 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: The fact that Mr. Lutz is on a corner property and is considered then by the Zoning Official to have two front yards, there is a bit of a hardship placed on Mr. Lutz as he is trying to develop his property. The fact that the lot is extremely wooded and the applicant is proposing to clear only what is necessary to put up the pole barn, I vote yes.

Ms. Lentz: I vote yes. It is a hardship having two front yards, really limiting what can be done on the property. I also appreciate the applicant’s willingness to not clear any more trees than what is necessary.

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

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

Mr. Cain: I vote yes for reasons previously stated.

Mr. Raff: I vote yes for reasons previously stated.

Mr. Tomasello: I’ll also vote yes and make it unanimous. Although this does not normally fall under the traditional hardship analysis, it is inconvenient to the owner of the property having more than one front yard. The applicant is willing to work with us and is clearing the minimum amount of trees on the property. In addition, the property is densely populated with trees creating a significant buffer. I see not negative impact for this application so I vote yes.

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

Executive Session – Chairperson, Frank Tomasello announced that the meeting would be moving into Executive Session. He asked all members of the audience to leave until the Executive Session was finished.

It is noted that all members of the public left.

Adjournment – When the regular session resumed, Mr. Choyce moved, seconded by Mr. Strigh to adjourn the meeting. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Respectfully submitted,

Jeanne M. Parkinson, Secretary
Zoning Board of Adjustment

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