

A meeting of the Township of Hamilton Zoning Board of Adjustment was held on the above date with Chairperson, Elaine Valentino, presiding. Members present were Wayne Choyce, William Christman, Dr. Robert Kahrman, Dr. Lawrence Mroz & Bruce Strigh. Also present was Board Solicitor, Richard DeLucry (substituting for Rebecca Lafferty) & Zoning Officer, Hannah Desmond.

Member(s) Absent: Carl Pitale

Announcements: There were none.

John Lehman; App. #2017-10; Block 1231 Lot 1; located at 1210 Grand Avenue, was present & is seeking a Variance for an accessory structure built without permits (6 foot fence) in the front yard area of Grand Avenue & any other variance(s) found to be necessary.

Mr. Choyce recused himself for this application.

Solicitor, Richard Delucry, verified the proof package had been executed properly.

The following were sworn in:

John Lehman

David Payne

Ms. Valentino requested a report from Ms. Desmond regarding the violation notice. Ms. Desmond stated the violation notice was due to a complaint for the placement & height of the fence. The township has a provision in the ordinance stating the maximum height of a fence in the front yard area is 4 ft. The property abuts 3 streets (1 in unimproved) the fence in question is along Grand Ave. The violation was issued in the fall of 2016, she then sent out 3 notices, a summons & then the owner made application to the Board.

Ms. Valentino asked Ms. Desmond if she made any observations regarding site distances (corner of Grand & unimproved street). Ms. Desmond replied there are 2 fences in questions (newer vinyl & older chain link). The chain link encroaches over the property line & could impact the site triangle. The fence is higher than what is allowed. The date the township uses for the adoption of the ordinance is 1955.

Ms. Valentino asked Mr. DeLucry if there should be any amendment to the relief requested by the applicant for site triangles (as per Ms. Desmond's observations). Mr. DeLucry stated, as per his review of the survey, the issues are the height of the vinyl fence (doesn't impact the site triangle) & a portion of the fence has extended along Grand Ave. frontage outside the property line. There is no need to amend the application to state relief for site triangles along that portion. The height is the only issue.

Mr. Strigh asked about the difference is between property record cards 2 & 3. The photos shown look the same. Ms. Desmond stated the cards reflect the structures on the property but she doesn't know the building class definitions. That is a tax assessor questions. There may be an issue with more than 1 dwelling on the property. The survey was updated this year & the applicant stated everything on that survey is currently on the property.

Mr. DeLucry asked the applicants to state their name & address for the record.

John Lehman-1210 Grand Avenue

David Payne-1210 Grand Avenue

Mr. Lehman commented part of the property was a swim club in the 1970s & that is where the fence is from. The out building was a pool house for the swim club & someone does live there. He is being assessed for 2 buildings. The stockade fence was installed for privacy. The survey does show all the structures on the property. Initially there were 4 building on the property (2 outbuildings, a garage & main house) & the derecho knocked down one of the out buildings.

Property record card 1 states the main house is a single family house.

The purpose of placing the shorter part of the vinyl fence close to Grand Ave. was for their dog.

There was discussion regarding the fence placement as per the survey.

Mr. Payne asked why the fence is not allowed in the front yard. Ms. Valentino commented it is part of the ordinance & that is why a variance is required. Mr. Lehman made comments regarding other applications who asked for variances for fence height. In order to convince the Board to allow the fence the applicant must state the special reasons.

Mr. Lehman mentioned the road has gotten busier over the years, especially with the bike path. The dog, traffic & robberies are hardships for the variance. They would also like to have privacy in their yard & house.

The distance from the shorter portion of the vinyl fence to the property line is 3.4 ft. & from the longer portion of the vinyl fence to the property line is about 12 ft.

Ms. Valentino asked the applicants to approach the dais to review the suggestion that the Board made regarding the fence on the survey.

It was confirmed that the following is how the fence will be realigned:

- The smaller section of the 6 ft. fence will be REPOSITIONED back from Grand Ave.
- Connecting of the re-positioned fence joining larger section of 6 ft. white vinyl fence along Grand Ave.
- Removal of the stockade/chain link fence at the intersection of Grand Ave. & 1st Str.
- Continuum of 6 ft. white vinyl fence from 2 re-joined sections in a straight line connecting to the stockade/chain link fence on 1st Street.

There was discussion to moving the shorter part of the fence in line with the longer part.

Ms. Valentino asked if anyone would like to speak for public comment. Mr. Strigh moved, seconded by Mr. Christman to close the public portion of the hearing. SAID MOTION CARRIED WITH ALL MEMBERS VOTING "AYE," NO "NAY," NO "ABSTAIN."

Mr. Strigh motioned to open the public portion, seconded by Dr. Kahrman. Mr. Wayne Choyce, 1010 Grand Ave., asked the board if the issue of the stockade fence that exists on township property. The shorter portion of the vinyl fence will be brought back in line with the longer portion.

Mr. Strigh moved, seconded by Mr. Christman, App. #2017-10, Block 1231 Lot 1; located at 1210 Grand Avenue to grant a variance to John Lehman for the replacement of the fence as per the survey. The 6 ft. white vinyl fence will be the only fencing along Grand Ave. which will improve setbacks from Grand Ave. & sight distances at the intersection of Grand Ave. & 1st Str. The gate will remain at the same location. The Board recommends the work to be completed by October 1, 2017 & pay all permit fees that are applicable. SAID MOTION CARRIED WITH FIVE (5) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY" and NO "ABSTAIN."

ROLL CALL ON THE ABOVE MOTION

MR. CHRISTMAN-AYE
MR. STRIGH-AYE

DR. KAHRMANN-AYE
MS. VALENTINO-AYE

DR. MROZ-AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CHRISTMAN: Yes.

DR. KAHRMANN: Yes.

DR. MROZ: Yes.

MR. STRIGH: Yes. I believe the applicant was to cooperate & compromise on the location of the fence. It will be more pleasing & will maintain privacy for the owners.

MS. VALENTINO: Yes. I visited the property & think the willingness of the applicant to bring back the shortest section of the vinyl fence & continue it straight across affords them the privacy they desired. With that change the Board is satisfied with the safety of the site triangle & distances.

The applicant made comment to the young man who recently died in that area on the road.

Approval of Minutes – Mr. Christman moved, seconded by Dr. Kahrman to approve the minutes from the July 24, 2017 meeting. SAID MOTION CARRIED WITH FIVE (5) MEMBERS VOTING “AYE,” NO “NAY,” and NO “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION:

MR. CHRISTMAN-AYE DR. KAHRMANN-AYE DR. MROZ-AYE
MR. STRIGH-AYE MS. VALENTINO-AYE

SAID MOTION CARRIED.

Memorialization of Resolutions- Mr. Christman moved, seconded by Dr. Kahrman to adopt the resolution for Gary Brenner for a ground mount solar array-**App. #2017-13; Block 36 Lot 9** . SAID MOTION CARRIED WITH FIVE (5) MEMBERS VOTING “AYE,” NO “NAY,” and NO “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION:

MR. CHRISTMAN-AYE DR. KAHRMANN-AYE DR. MROZ-AYE
MR. STRIGH-AYE MS. VALENTINO-AYE

SAID MOTION CARRIED.

Ms. Valentino mentioned the Secretary emailed out a reminder regarding the NJLM & to check with her regarding any upcoming classes. Dr. Mroz will be attending the mandatory training at the league.

Zoning Officer Report- Ms. Desmond stated she sent a Notice of Violation to Peter Dellas (5732 Main Street) regarding conditions per the Resolution which have not been met. He has 30 days to comply. The only permit he pulled from construction was for electric. He has also not submitted an engineer’s report either. She will continue to issue notices of violation & then a summons.

Discussion ensued regarding the conditions which he had to abide by as per the Resolution.

It was suggested that once a quarter the Zoning Officer give a report as to the status of previous zoning board applications. Ms. Desmond will discuss with Phil Sartorio if this is part of her standard operating procedures.

Ms. Desmond commented the zoning board can submit complaints to her regarding properties.

Ms. Desmond was asked about the status of another previous Board Application 2500 Linwood & 2550 Linwood (Angerman). The variance was for allowing the construction of homes which front streets that are not improved.

Mr. Choyce stated that part of the resolution was to obtain an agreement with the Township with regards to the maintenance of the gravel road. Mr. Choyce asked if that agreement was ever done. Ms. Desmond answered she reviewed the resolution in respect to what the property is being used for (residential or agriculture). She also stated an agreement regarding the maintenance of the street would be with public works not her. Permits have not been opened for the building of any houses.

Mr. Strigh noted the property has been cleared. Ms. Desmond answered that Mr. Angerman did get a permit for the clearing, the construction of farm buildings but not the building of houses. That is an active permit. She doesn’t recall if the variance included farm buildings, so she feels he would have to come back to the Board to ask for approval for houses. Farm buildings are agricultural use & do not require a street to be improved. Mr. Strigh does not recall farm buildings being discussed at the Zoning Board meeting when he asked about getting a variance for building a house on an unimproved street.

Ms. Desmond stated the property is in a zone that allows farm structures to be built in connection with a farm. He is permitted to use the property as a farm but with respect to the variance, he is not allowed to have a farm business. He is allowed to have a farm for personal use which is what his permit is for. She feels he would have to come back to the board because his original variance has expired.

Mr. Choyce noted the resolution required the applicant to get a signed agreement with the township to maintain the road & asked Ms. Desmond if that has been done. Mr. Christman clarified Mr. Angerman didn't have to pave anything unless in the future someone else was to build a house & then they would share the expense with the applicant for paving. Mr. Angerman was to take responsibility to maintain the road to the end of his property. He was also required to sign an agreement which was to be drafted with the township Engineer & Solicitor. The township would have to inspect what was being done regarding the maintaining of the road. Mr. Choyce asked again if an agreement was ever signed. Ms. Desmond responded that she feels like she is being attacked. She commented that she didn't have to present this information & she is doing it as a courtesy because she is being asked. She went on to further state that when Bruce sends her an email about things it is due to his concern. The fact she was formally on the agenda made her feel uncomfortable because the questions could have been directed in a phone call. In her view the variance is null & void. She has also not seen any agreement & he has not pulled any permits for the construction of a house.

Mr. Choyce asked if the applicant was notified that his variance is null & void. Ms. Desmond commented no it is not part of the normal process.

Mr. Angerman is not in violation of anything unless he begins to build a house without proper permits. She has been out to the property & does not think the road has been improved. She also feels the buildings are not being used for his business. Her opinion is that he used his own equipment to do the work on the property. If she discovers that the property is being used for other uses she will address it with a violation.

Ms. Valentino noted that without plans it is hard to tell if he will need any other variances. Ms. Desmond feels plans should have been submitted with that variance. Ms. Valentino appreciated Ms. Desmond's input & research in regards to the Angerman application.

Ms. Desmond understands the Board is passionate for what happens in the community & wants to see the resolutions enforced but she does not work for the Board, she works for the Township. She can do things & address issues but complaints can be submitted to her as a citizen not a Zoning Board member. She has concerns of the level of expectations the Board requires of her & commented that it is unsettling.

Mr. Christman asked if next time the Board sees Kevin he can be asked about this application.

Ms. Valentino thanked Ms. Desmond for her answers in regards to the applications. There was a lot of research to be done, especially for the Angerman application.

Mr. Strigh does see Ms. Desmond's point but the Board puts a lot of time & effort into each application. In the past, conditions put into resolutions but have fallen on deaf ears. He has concerns regarding Paragon which was an application heard many years ago.

Public Comment- Ms. Valentino did not open public comment due to no one being in the audience.

Adjournment – Mr. Strigh moved, seconded by Dr. Kahrman to adjourn the Zoning Board of Adjustment meeting at 8:15 p.m. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Respectfully submitted,

Deborah Ohnemuller, Secretary
Zoning Board of Adjustment