

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, Michael Graff, Dr. Robert Kahrman, Dr. Lawrence Mroz and alternate members Bruce Strigh and Diane Fox. Also present was Board Solicitor, Rebecca Lafferty and Zoning Officer, Hannah Desmond.

Members Absent: John Sachinelli

The Statement of Compliance was read.

Announcements: Ms. Valentino thanked all the Board Members for attending the mandatory training on ethics and she stated that the Delta Group (ZB2016-08) will be postponed until the April 22, 2019 meeting.

Fred Bohren; App. #2019-03; Block 809 Lot 6; located at 5717 2nd Avenue; was present and seeking a third one year extension of a previous variance approval.

The following were sworn in:
Fred Akers, Greater Egg Harbor Watershed
Fred Bohren, Richland, NJ

Mr. Akers asked for another extension for the variance approval which was previously granted for Mr. Bohren's lot. Last year they did not achieve all the funding that is needed to purchase the lot. They are currently working with Green Acres and Atlantic County to purchase his lot for open space that will be owned by the Township as a new park. Funding is promised and Green Acres requirements are completed including the preliminary assessment which was the \$2,000.00 cost to prove that there was no pollution on the lot. At this time, Green Acres is unable to state when they are willing to purchase the lot. They are here to guarantee Mr. Bohren's right to develop the lot in case the purchase falls through, but they are not expecting that to happen.

They will have to install a sign which will state that the lot is a Green Acres acquisition project and the lot will stay in its natural state.

Exhibit A-1- extension request.

Mr. Christman stated he is an appointee to the Greater Egg Harbor River Council and has been involved with Mr. Akers and Mr. Bohren on the progress of this. He recommends another extension be granted and this will be the 3rd extension of the Variance request. This extension would begin at the expiration of the latest one.

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

Mr. Strigh moved, seconded by Mr. Christman, **App. #2019-03, Block 809 Lot 6; located at 5717 2nd Street** to grant a 3rd extension for a previously approved Variance which will expire May 23, 2020. SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY" and NO "ABSTAIN."

ROLL CALL ON THE ABOVE MOTION

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

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CHOYCE: I vote yes.

MR. CHRISTMAN: Yes.

MR. GRAFF: Yes.

DR. KAHRMANN: Yes.

DR. MROZ: Yes.

MR. STRIGH: Yes.

MS. VALENTINO: I vote yes. We have a history with this particular case and also there have been many instances where Mr. Akers has provided updates to the Board and Township Committee. We thank you for your diligence in the matter.

Mr. Strigh also thanked Mr. Bohren for his patience and Mr. Akers for his diligence in this matter and it is a benefit for the town.

Tyisha Moya; App. #2019-02; Block 744 Lot 7; located at 34 Taylor Avenue, was present & is seeking a Variance for an accessory structure (6 ft. fence) in the front yard area of Taylor Avenue and Route 50 and any other variance(s) found to be necessary.

The Secretary verified the proof package had been executed properly. Ms. Lafferty verified the publication was correct & Ms. Desmond stated the application can be deemed complete.

Ms. Moya stated she would like to change the existing 4 ft. fence to a 6 ft. fence. She also commented the portion of her property which fronts Route 50 slants down and the fence in the front is for the safety of her dogs and child.

Mr. Strigh asked about the wooden fence in the rear yard and Ms. Moya answered that is her neighbor's fence. She is going to leave the current fence in the front yard as 4 ft. and the proposed fence will be placed where indicated in red on the survey.

Mr. Choyce asked Ms. Desmond why the proposed fence is considered being in the front yard and she stated when she visited the property along with reviewing the survey it was difficult for her to figure out where the fence would be in the front yard. If there is a doubt of what is being proposed she can request the applicant to come before the Zoning Board. She felt the proposed fence placement was too ambiguous to not bring it to the Board. Mr. Strigh and Mr. Graff agreed with Mr. Choyce that the proposed fence seems to be in the side yard not either front yard.

Ms. Desmond read the definition of a front yard as per the ordinance. With this property the proposed fence does not fit the definition of side, front or rear which is why it is before the Board. The applicant could have applied for an interpretation to make the determination regarding side or front yard variances. Mr. Christman noted that Route 50 is about 20 ft. above the street level of Taylor Avenue and that would never be an access.

Discussion ensued regarding the property. Mr. Choyce asked members who visited the property if they had any doubt that the current 4 ft. fence was located in the side yard. The members who visited the property said it was in the side yard. Ms. Valentino stated the Board should find out what the side yard on right and left of the dwelling and is a variance required. The zone is R-9 and side yard setbacks for principle structure is 10 ft. There are not any setback requirements for fences.

There was discussion regarding if it was necessary for this application to come before the board since fences are not looked at as accessory structures and can be placed on property lines. The proposed fence will be located in the middle of the house.

Ms. Desmond verified that fences can be placed on the property line or up to the property line. She felt this applicant was too difficult to verify.

Mr. Strigh stated this application does not merit a vote due to the fence not being in the front yard and all she would need is permit. Ms. Lafferty would be comfortable with the applicant amending the application to an interpretation.

Ms. Moya confirmed she would verbally amend her application to an interpretation as to whether the fence location is in the front or side yard. The notice would not alter the opinion of anyone who received it in the neighborhood or read it.

Dr. Mroz asked if the applicant was due any refunds for this application and Ms. Lafferty answered that there are still application fees with an application for interpretation but if the fees are less than the variance application, then yes, she would be due a refund of a portion of the application fee paid. As for escrow, it does not matter, whatever escrow is not utilized by professionals or otherwise, is returned to the applicant anyway. Mr. Graff asked about the shed which is indicated on the survey as being in the back left side. Ms. Moya stated that shed came with the house. Board members reviewed the photos which were submitted with the application and could not see that shed.

Ms. Moya attended the HPC meeting on March 18th and they approved any of the fence styles she chose. Her fence style preference is the one with dog ears and the 2nd would be the one with the lattice on top.

Ms. Moya stated the shed that is on the property is a Rubbermaid plastic shed which is not bolted down and is not in the same area as indicated on the survey.

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 moved, seconded by Mr. Choyce, **App. #2019-02, Block 744 Lot 7; located at 34 Taylor Avenue** to consider an interpretation of the placement of a 6 foot fence and not a front yard setback. Said fence can be constructed as shown on the drawing without any variances and the difference in fees be adjusted by the Board Secretary to be consistent with an interpretation versus a variance. SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING "AYE", NO MEMBERS VOTING "NAY" and NO "ABSTAIN."

ROLL CALL ON THE ABOVE MOTION

MR. CHOYCE-AYE
DR. KAHRMANN-AYE
MS. VALENTINO-AYE

MR. CHRISTMAN-AYE
DR. MROZ-AYE

MR. GRAFF-AYE
MR. SACCHINELLI-AYE

SAID MOTION CARRIED.

NOTE: The following Board Members made comments

MR. CHOYCE: I vote yes. I think it is very clear from the photographs and survey that the proposed fence location is in the side yard and not the front yard. The interpretation is the correct way for the Board to go with this application.

MR. CHRISTMAN: I vote yes.

MR. GRAFF: I vote yes.

DR. KAHRMANN: Yes.

DR. MROZ: Yes.

MR. STRIGH: Yes for the previously stated reasons.

MS. VALENTINO: I vote yes. I visited the property as many other Board members did and think the factual finding should indicate the applicant did appear before the HPC and was approved. She also has a choice of fences based on the approval from HPC. The Board has considered this application to be an interpretation.

Approval of Minutes: Mr. Christman moved, seconded by Dr. Kahrman to approve the minutes from the February 25, 2019 meeting. SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING "AYE," NO "NAY," and NO "ABSTAIN."

ROLL CALL ON THE ABOVE MOTION:

MR. CHOYCE-AYE
DR. KAHRMANN-AYE
MS. VALENTINO-AYE

MR. CHRISTMAN-AYE
DR. MROZ-AYE

MR. GRAFF-AYE
MR. STRIGH-AYE

SAID MOTION CARRIED.

Memorialization of Resolution(s): Mr. Choyce moved, seconded by Mr. Christman to adopt the resolution for **Joseph and Tracy Amici -App. #2018-21; Block 443 Lot 9** for an accessory structure (14 ft. x 30 ft. storage shed). SAID MOTION CARRIED WITH SEVEN (7) MEMBERS VOTING “AYE,” NO “NAY,” and NO “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION:

MR. CHOYCE-AYE
DR. KAHRMANN-AYE
MS. VALENTINO-AYE

MR. CHRISTMAN-AYE
DR. MROZ-AYE

MR. GRAFF-AYE
MR. STRIGH-AYE

SAID MOTION CARRIED.

Mr. Christman complimented Ms. Desmond in regards to the application which was heard tonight.

Approval of 2018 Annual Report (required) 40:55d-70.01: Dr. Kahrmann moved, seconded by Mr. Christman to approve with revisions. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

ROLL CALL ON THE ABOVE MOTION:

MR. CHOYCE-AYE
DR. KAHRMANN-AYE
MS. VALENTINO-AYE

MR. CHRISTMAN-AYE
DR. MROZ-AYE

MR. GRAFF-AYE
MR. STRIGH-AYE

SAID MOTION CARRIED.

Mr. Strigh asked about the status of the Lake Lenape Healthcare application and Ms. Lafferty stated they came to a workshop and are making revisions.

Ms. Valentino asked Ms. Desmond for a review of the applications which were approved but the Board with conditions and if those conditions have been met. Ms. Desmond stated there were 22 variances which were heard last year with one carried into the current year and one being an extension. The Zoning Permits for the rest of the applications are open construction permits and have not been closed out. There are 2 Variance Applications that have not applied for Zoning Permits and have been notified. There is one on Little Eagle Drive which is coming close to expiration date. Ms. Desmond explained how she tracks the applications on the computer as far as expiration.

Ms. Lafferty explained that Variances will expire after one year if the owner has not applied or started any construction. If they do not then the variance will expire. Mr. Strigh asked if they applied for the permit and start the construction but then do not finish. He gave an example of the property on Main Street across from Boakes Funeral Home which was the subject of a Zoning Board Application and wanted to know the status. Ms. Desmond stated the construction inspections would have to be reviewed for that property.

Ms. Desmond commented in regards to the 2018 Zoning Board applications there are 2 that have not opened permits as of yet.

Ms. Lafferty stated variances do not become part of the legal description of a deed.

Mr. Choyce asked about the status of an application which was heard on October 23, 2017 (1211 Grand Avenue – Jeffers). He stated the solar panels are not installed, shed is not moved and at least 10 trees have been removed. Ms. Desmond stated if Zoning and Construction Permits have been opened it is in the hands of the Construction Department and she will research and get back to the Board.

When a conditional variance is granted for a structure that needs to be removed/relocated due to it not meeting setbacks, the Board members can put a time period into the Resolution to have that item removed/relocated. Ms. Desmond will research that specific application (1211 Grand Avenue).

Mr. Choyce brought up a previous application (ZB2018-22) and commented about the tractor trailer trucks (2) which were parked in the front of the property on a Saturday on the shoulder of the road.

There was discussion if those tractor trailers are the ones which were parking on Tanglewood at some point.

Ms. Lafferty noted that the appeal period starts 45 days from publication once the Decision and Resolution has been approved. The Secretary stated the ad is sent to The Press of AC the day after the Decision and Resolution has been approved and is published within a few days.

Public Comment: Dr. Kahrman 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.”

Adjournment – Mr. Christman moved, seconded by Mr. Choyce to adjourn the Zoning Board of Adjustment meeting at 7:56 p.m. SAID MOTION CARRIED WITH ALL MEMBERS VOTING “AYE,” NO “NAY,” NO “ABSTAIN.”

Respectfully submitted,

Deborah Ohnemuller, Secretary
Zoning Board of Adjustment