

MINUTES
APRIL 17, 2012

BOARD OF ADJUSTMENT

LONG HILL TOWNSHIP

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The Vice-Chairman, Mrs. Raimer, called the meeting to order at 8:04 P.M.

She then read the following statement:

Adequate notice of this meeting has been provided by posting a copy of the public meeting dates on the municipal bulletin board, by sending a copy to the Courier News and Echoes Sentinel and by filing a copy with the Municipal Clerk, all in January, 2012.

PLEDGE OF ALLEGIANCE

ROLL CALL

On a call of the roll the following were present:

Sandi Raimer, Vice Chairman
Christopher Collins, Member
John Fagnoli, Member
Maureen Malloy, Member
Felix Ruiz, Member

Michael Pesce, 1st Alternate

Barry Hoffman, Bd. Attorney
Kevin O'Brien, Twp. Planner
Dawn Wolfe, Planning & Zoning Administrator

Excused: E. Thomas Behr, Chairman
Edwin F. Gerecht, Jr., Member
Richard Keegan, 2nd Alternate

Thomas Lemanowicz, Bd. Engineer

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EXECUTIVE SESSION

It was determined that there was no need to hold an executive session.

PUBLIC HEARING

RICHARD & SUSAN SCHUMANN

1 Semerad Road
Block 12502, Lot 15

#09-08Z – A
Amended Approval

Present: Richard Schumann, co-applicant

Proof of service was submitted.

Mrs. Raimer explained that the applicants are seeking an amendment to a previously granted variance request. She said that she had spoken to Mr. Lemanowicz earlier this afternoon and, in light of the fact that there are no known drainage problems, issues of a change in footprint, or engineering issues, it was felt that his presence at this meeting was not necessary. Therefore, as a cost cutting measure and a means of efficiency, Mr. Lemanowicz was excused.

Mr. O'Brien said that Mr. Schumann should confirm on the record that the *only* physical change to the building will be a rise of approximately 1'3" which does violate the existing side yard setback but is in line with the prior approval granted by this Board.

Mr. Richard Schumann, co-applicant, was sworn. He stated that to the best of his knowledge Mr. O'Brien's statement is accurate.

Mr. O'Brien said that, because the addition that is proposed does exacerbate the existing side yard setback, this is a new intrusion and is above what was previously accepted and approved by this Board so, unfortunately, it does require a bulk variance. He said that a bulk variance is one that is given based upon the size and shape of the land. It is not a use variance, but rather is a violation of the setbacks and the bulk requirements of the Township. Among the hardship issues that the Board can address as part of their burden of proof for a c-1 hardship is that is an extraordinary and exceptional situation uniquely affecting a specific piece of property. In this particular case, there is an extraordinary and exceptional situation affecting this property in that an approval was granted by the Board based upon the plans that were presented to it. When Mr. Schumann went to perfect the plans and build his addition, the architect's realized that there was a mistake because the floors of the proposed garage and existing home did not line up. In order to make them line up, the garage had to be raised by 1'3" in order to match the floor lines, so the garage will be that much higher than what it was proposed to be. It will still violate the side yard setback as it did, but only from a somewhat higher perch than it was before. He said that the only remaining part of the proof is the negative criteria. He felt that Mr. Schumann is going to assure the Board that, due to the nature of the application, there will be no negative impact upon any of his surrounding neighbors.

Mr. Schumann agreed.

Mr. O'Brien said that, therefore, it would be up to the Board to decide whether or not the applicant has met the burden of proof and to see if there are any questions.

Mrs. Raimer felt that the record should also reflect that the neighbor is a parking lot, noting that Mr. Schumann's property is located next to a non-residential zone.

Mr. Schumann agreed.

Mr. Hoffman noted that that particular party had originally consented to the earlier application.

Mr. O'Brien noted that he was also a party to the original application.

In response to Mr. Collins, Mrs. Wolfe confirmed that new notice for this application was served and that no one had made inquiry to her regarding the application.

Mr. Hoffman said that Mr. Schumann should be afforded the opportunity to present any comments that he may wish to.

Mr. Schumann said that the application basically speaks for itself. He said that when he applied for his construction permits, it was discovered that there was a level issue and he and his wife since they had already invested significant time in the project by that point, he and his wife decided to spend the additional time required in order to have the addition constructed the way they had originally planned to have it done. He said that it is a very minor change and does not change the slopes or the footings/slab. He said that the access from the road will stay the same and it is just a matter of raising the ceiling height in the garage and room above it.

In response to Mr. Ruiz, Mr. Schumann said that the overall height of the garage will be 27'11" from the slab.

In response to Mr. Pesce, Mr. O'Brien said that the proposal will violate the side yard setback because it did not exist before, so even though it conforms to what was approved and goes

straight up and does not go any further into the setback from what the Board previously approved, nonetheless it is a new intrusion requiring further approval.

Mrs. Raimer noted that no members of the public were present, therefore there was no need to open the meeting to the public.

Mr. O'Brien said that the Board should consider very carefully if the burden of proof has been met before making its decision.

Mr. Hoffman said that he took the liberty, on his own – not because he was asked to do so, of preparing a proposed draft approval Resolution for this amendment, copies of which he circulated. He said that, if acceptable to the Board, a member could offer a motion to adopt the draft Resolution which would constitute approval for the requested amendment. He noted that on Pg. 3, he had included a single potential condition to the approval (other than the standard administrative terms of proof of current tax payment and the status of the developer's escrow account) that being that the applicants shall submit revised engineering plans for the project which are consistent with the revised architectural plans which have been submitted.

Mr. O'Brien said that the Board may wish to add a condition that this approval be consistent with all prior approvals in this matter, so that we don't have to go down the laundry list again in terms of finish, composition, layout, etc.

Mr. Hoffman requested Mr. O'Brien to review Pg. 3, Paragraph 4 of the conditions to see if that doesn't cover it.

Mr. Collins moved to adopt the draft Resolution granting the requested amendment to the previous application in accordance with the terms outlined in the Resolution amending the prior approval.

Mr. Ruiz seconded the motion.

A roll call vote was taken. Those in favor: Mr. Collins, Mr. Fagnoli, Mrs. Malloy, Mr. Ruiz, Mr. Pesce and Mrs. Raimer.

In response to Mrs. Raimer, Mr. Hoffman said that it was not necessary to read the Resolution into the record and that Mr. Schumann should not have to return to the Board. He agreed that Mr. Schumann will receive a certified copy of the Resolution in the mail. He noted that it was only 8:20 PM and suggested that Mr. Schumann be given an opportunity to review the Resolution.

Mr. Schumann said that he only had one question which concerned the revised engineering plans contained on Pg. 3, Paragraph 2, line item "a".

Mr. Hoffman said that he had mentioned that item which he took from Mr. Lemanowicz's report (verbatim), which was his singular recommended condition. He said that it need not necessarily be included, but Mr. Lemanowicz felt that it would clean things up administratively or clerically, to have the architectural and engineering plans totally in synch with one another.

Mr. O'Brien replied, however, that there is going to be no change to the engineering plans because when you look down on this from above, the outline, numbers, and setbacks are the same.

Mr. Schumann agreed.

Mr. Hoffman said that Mr. Lemanowicz had said that "The engineering and architectural plans for this application have been previously signed. While engineering plans have not been specifically prepared for the amended application, this office recommends that, in the case of an affirmative decision by the Board, that a new set of engineering plans with an updated revision

date be provided for signature along with the revised architectural plans.”, which is why he included the same as a condition.

Mr. O’Brien said that if there are no changes to the engineering plans, should the Board wish, the approved and signed engineering plans that are on file govern. He said that Mr. Lemanowicz would like to have something updated to keep the file clean, but just to update an engineering plan to say that 8-9 months later we did it again, but there was no change, so here is another set..... He said that the applicants have a set that governs that is signed and that is all that is needed to go forward because there are no changes to the site.

Mrs. Raimer said that she was content with the existing engineering plans and *not* requiring Mr. Schumann to have to obtain a revised set of plans.

Mr. Collins agreed.

Mr. O’Brien reconfirmed with Mr. Schumann that there will be no change to his engineering plans. He cautioned him that if there is any change from those plans, he will need further Board approval.

Mr. Schumann acknowledged that he understood.

In that case, Mr. Hoffman said that he had stricken from his copy (which will become the final document) Condition No. 2 entirely about any plan revisions, including Subparagraph a about what we have been discussing (the engineering plans), which results in the renumbering of the two remaining conditions, which become Nos. 2 & 3 (instead of Nos. 1 – 4). He said that, if the members who offered and seconded the motion want to consent to the amendment as stated, it could be done right now.

Mrs. Raimer said that she was looking for a reference in the existing Resolution to the revised architectural. She asked if there was any other reference to them.

Mr. Hoffman replied, “Yes”.

Mr. O’Brien noted that it is on Pg. 2.

Mr. Hoffman agreed. He said that he has also stricken the word “any” about 1/3 of the way down on the page because it had to do with who will be testifying and there *was* an individual (Mr. Schumann).

Mr. Connor said that he wished to amend the motion he had made striking on Pg. 3 that the applicant needs to submit revised engineering plans for the project which are consistent with the revised architectural plans, due to the fact that it is currently known that there will be no engineering changes (and if there *are* any engineering changes, we will need to deal with those issues), as well as to strike the lead in to Condition No. 2 (because there are no other plan revisions).

Mr. Ruiz seconded the (amended) motion.

In response to Mrs. Raimer, Mr. Schumann said that he had a chance to look over the draft Resolution and that it appeared satisfactory to him.

A roll call vote was taken. Those in favor: Mr. Collins, Mr. Fagnoli, Mrs. Malloy, Mr. Ruiz, Mr. Pesce and Mrs. Raimer. Those opposed: None.

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ANNUAL REPORT ON VARIANCES HEARD BY THE BOARD OF ADJUSTMENT

The Board of Adjustment adopted the annexed Annual Report on variances heard by the Board of Adjustment on motion by Mr. Pesce and seconded by Mr. Ruiz.

Bd. of Adj. – April 17, 2012

A roll call vote was taken. Those in favor: Mr. Collins, Mr. Fagnoli, Mrs. Malloy, Mr. Ruiz, Mr. Pesce and Mrs. Raimer. Those opposed: None.

There being no further business, the meeting adjourned at 8:26 P.M.

DAWN V. WOLFE
Planning & Zoning Administrator

