

JUNE 14, 2012

A regular meeting of the Zoning Board of Appeals of the Village of Lakewood, NY, was held Thursday, June 14, 2012, 6:30 PM, in the Board Room of the Village Hall, 20 W. Summit Street, with Chairman William F. Chandler presiding. Board Members present were Myra V. Blasius, Duane F. Anderson and Willard Anderson. Also present was Village Clerk/Secretary Joseph M. Johnson. Absent were Zoning Board of Appeals member Louis S. Drago, Jr. and Building Inspector Charles L. Smith.

APPROVAL OF MINUTES

Motion by Duane F. Anderson, seconded by Willard Anderson, to approve the minutes of the last regular meeting of the Zoning Board of Appeals held May 10, 2012.

Adopted: 4 ayes, no nays (Chandler, Blasius, D. Anderson, W. Anderson)

FRONT YARD SET-BACK VARIANCE 34 WEST TERRACE AVE.

Mr. Nicholas Pannes, 34 West Terrace Ave., has re-submitted an application for a front yard set-back variance regarding a proposal to construct a 5 ft. x 9 ft. addition, plus a landing and steps onto the east side of his residence so as to establish a more convenient entry way for visitors. The proposed site plan indicates a set-back of less than 1 ft. from the easterly property line/westerly boundary line of the Vista Way right-of-way, rather than the required 25 ft. as prescribed in Section #25-10, (E), [Single-Family Residential (R-1) District] and Section #25-20, [Corner Lots] of the Village of Lakewood Zoning Law.

Chairman William F. Chandler asked Mr. Pannes if he would like to briefly explain the changes that have been made with the proposed site plan since the Board of Appeals first reviewed this matter at last month's regular meeting.

Mr. Pannes indicated unlike the original site plan which depicted the landing and steps coming off the east side of the 5 ft. x 9 ft. addition, the redesigned landing and steps will come off the south end of the addition towards the existing driveway and therefore will not encroach upon the Vista Way right-of-way.

Motion by Myra V. Blasius, seconded by Duane F. Anderson, to grant/approve the application for a front yard set-back variance as submitted by Mr. Nicholas Pannes, 34 West Terrace Ave., whereby he will be allowed to construct a 5 ft. x 9 ft. addition, plus a landing and steps, onto the east side of his residence having a front yard set-back of less than 1 ft. versus the required 25 ft.

Adopted: 4 ayes, no nays (Chandler, Blasius, D. Anderson, W. Anderson)

SIDE YARD SET-BACK VARIANCE 20 WEST LAKE STREET

Mr. Geoffrey Bond, 20 East Lake Street, has submitted an application for a side yard set-back variance regarding a proposal to construct 1a 14 ft. x 38 ft. single story addition, (indoor swimming pool & bathroom) onto the west side of his residence. The proposed site plan indicates a side yard set-back of 3.6 ft. to 4.0 ft rather than the required 7 ft. as prescribed in Section #25-11, (E), [Multiple-Family (R-2) District] of the Village of Lakewood Zoning Law.

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Chairman Chandler asked Mr. Bond if he would briefly explain his proposed addition and the reason for the variance.

Mr. Bond said sound medical advise tells us we should work out year round. Because he works in Erie, PA, and doesn't get home until late, a trip to the local YMCA is difficult. With that said, it is his desire to add on an indoor swimming pool, (Endless Pool & Spa) onto the west side of his house which is the only logical location to construct the addition. The proposed 14 ft. x 38 ft. addition will be slightly closer to the property line than what the local zoning law allows. Mr. Bond then showed members of the Zoning Board of Appeals a series of photos of his house, in particular where the proposed addition would be built. Mr. Bond indicated the proposed addition will not extend any farther west than the porch of the apartment building at 11 East Terrace Ave., Mr. Bond said because his house doesn't sit exactly square on the lot the actual set-back of the proposed addition from his westerly boundary line ranges from 3.6 ft. to 4.0 ft.

Board member Myra V. Blasius asked Mr. Bond if he has had any feedback from any of his neighbors concerning his proposed addition.

Mr. Bond said he hasn't had any feedback from his neighbors, adding the Village of Lakewood is his only neighbor to the west.

Chairman Chandler asked if anyone else present would like to speak for or against Mr. Bond's proposed addition.

Mr. Thomas A. Turner, 33 East Lake Street, indicated that he is the owner of the two properties immediately south of Mr. Bond's residence, (11 & 11.5 East Terrace Ave.) and the lot located at the north end of the Ohio Ave. right-of-way. If the addition were to be built as proposed it would have a major negative impact on the lake views from the apartment building at 11 East Terrace Ave. and the small cottage like residence at 11.5 East Terrace Ave.. The lake views from both properties would be chopped off the proposed addition by Mr. Bond. Mr. Turner said the proposed addition would have a negative impact on the value of his properties as well as what rent adjustments he might have to make without those lake views.

Mr. Turner said additionally there is current litigation ongoing between himself, Mr. Bond and the Village of Lakewood regarding his lakeside property at the north end of the Ohio Ave. right-of-way. Mr. Turner said a section of the Village of Lakewood Zoning Law was eliminated when it was last amended. Also, Building Inspector Charles L. Smith is on record at a public meeting stating that I was in my rights to build a cottage within certain set-backs on the aforementioned lakeside property. The Village of Lakewood has been unwilling to issue me a building permit based on the complaints by Mr. Bond and others.

Mr. Turner said granting Mr. Bond a variance this evening would likely draw additional litigation. The Village of Lakewood on one hand fails to issue me a building permit by right, while on the other hand considers granting my neighbor a variance. Mr. Turner said it is unfortunate that Building Inspector Smith is not in attendance this evening.

Chairman Chandler asked Mr. Turner wasn't there an issue with access to his lakeside lot.

Mr. Turner said that subject is part of the ongoing litigation.

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Mr. Turner said one of the reasons Mr. Bond has stated a reason for granting his variance is because it is inconvenient to go to the local YMCA when returns home from work. Under New York State Law that is not a valid reason for the granting of a variance. Mr. Turner then reviewed Mr. Bond's answers to questions on page two of the area variance application. Question C: If the area variance is allowed, will the resultant change in the character of the neighborhood create a substantial detriment to the adjoining properties? Mr. Bond's answer: No Mr. Turner said of course the proposed addition will have a negative impact on the use of those properties and some of his tenants are here this evening to share their thoughts. Question D: Do other feasible methods exist which the applicant might wish to pursue which would achieve results similar to those sought in the preliminary request? Mr. Bond's Answer: No Mr. Turner said Mr. Bond doesn't have a hardship and therefore under New York State Law he is not entitled to this variance. It is not a valid hardship to want to swim in your side yard versus going to the local YMCA. Question E: In view of the manner in which the difficulty arose and considering all of the above factors, will justice be served in allowing the variance? Mr. Bond's answer: Yes Mr. Turner said justice will not be served if the variance is granted because the proposed addition has a major negative impact on the adjacent properties.

Mr. Turner said he's definitely not in favor of the Board of Appeals granting Mr. Bond's variance request and this action is just adding fuel to the fire in connection to the ongoing litigation.

Mr. Bond posed the following question to Mr. Turner. Wouldn't the construction of his proposed cottage at the north end of the Ohio Ave. right-of-way have as big or bigger negative impact on the lake views enjoyed by his tenants.

Mr. Turner disagreed saying the topography will allow the building to set lower than Mr. Bond's proposed addition.

Mr. John Rowan, 10 Park Lane, indicated he is aware that a lot of variances are being granted. He then asked the question why do we have set-backs. One is for aesthetic value and the other is for functional purposes. Once you allow variances of less than seven feet, how are residents supposed to service and maintain their properties. Mr. Rowan said we are asking for a world of troubles if area variances are continually granted. Mr. Rowan said he is against the granting of side yard set-back variances if by doing so property owners are cut off from accessing their back yards.

Mr. David DiSalvo, 11.5 East Terrace Ave., said he would like to pick-up where Mr. Rowan left off. Mr. DeSalvo said he is a licensed City Planner and has thirty years of experience, twenty of those years he was employed by the City of Buffalo. He said the points made by Mr. Rowan are valid ones. Volunteer boards such as yourselves are on a slippery slope when you start granting variances in an arbitrary and capricious manner. Other folks are going to see this as an opportunity to ask for the relaxation of the local zoning law. Mr. DiSalvo said variances are constitutional safety valves within a particular zoning ordinance. He said minimum side yard set-backs are in place for a reason. If there were some compelling reasons for the granting of this variance, Mr. DiSalvo said he would be for it. Mr. DiSalvo noted that Mr. Bond has been a good neighbor and his particular stand on this matter is definitely nothing personal. Mr. DiSalvo said he moved to Lakewood from the City of Buffalo three years ago and the reason he did so was the quality of life this lakeside community provided. Mr. DiSalvo said Mr. Bond's proposed addition would hurt his quality of life. As a tenant, he pays Mr. Turner for the quality of life that 11.5 East Terrace Ave. provides. Mr. DiSalvo concluded by saying the benefits of granting any variance must outweigh any burdens imposed on the immediate neighborhood.

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Mr. Donald Dunlap, a tenant of Mr. Turner's apartment building at 11 East Terrace Ave., indicated that he and his wife Mary Beth are both retired and previously resided in the area known as Driftwood across the lake and lived in Florida for ten years. The reason we returned to the area and chose to live in an apartment was for the good quality of life it provides. We enjoy the lake and feel at home on the lake. Mr. Dunlap said his apartment is on the lower level and he looks directly into Mr. Bond's backyard. His proposed addition would cut off his view of the lake. Mr. Dunlap said without the view of the lake, he might consider looking for another apartment with a better view of the lake. Mr. Dunlap said he is opposed to the granting of Mr. Bond's side yard set-back variance because it would stick-out towards the park, obstructing his view of the lake.

Mr. Bond asked Mr. DiSalvo if he has a clear view of the lake from his front patio. Mr. Bond noted that he did not object to Mr. Turner's request for an area variance regarding a proposed front porch at 11.5 East Terrace Ave.

Mr. Turner interjected saying to clarify things, he never built the porch as originally planned. Instead he installed a concrete slab patio.

Mr. DiSalvo said to answer Mr. Bond's question, he can see the lake from the poured concrete patio.

Chairman Chandler said the neighbors have expressed some strong objections to Mr. Bond's proposal. He also noted that the Zoning Board of Appeals is somewhat unequipped to act on this matter without the input from Building Inspector Charles L. Smith and/or the Village Attorney.

Motion by Chairman William F. Chandler, seconded by Board member Myra V. Blasius to table any action on Mr. Bond's application for a side yard setback variance, regarding his proposal to construct a 14 ft. x 38 ft. one story addition, (swimming pool and bath) onto the west side of his residence having a side yard set-back that ranges from 3.6 ft. to 4.0 ft. until such a time the Board of Appeals receives input from Building Inspector Smith and/or Village Attorney Edward P. Wright, and in doing so will afford members of the Zoning Board of Appeals to take another look at the properties involved in light of some of the concerns voiced this evening.

Adopted: 4 ayes, no nays (Chandler, Blasius, D. Anderson, W. Anderson)

SIDE YARD SET-BACK VARIANCE 236 WEST SUMMIT STREET

Dr. Michael R. Evan, 1837 Beech Road, Stow, Ohio, has submitted an application for a side yard set-back variance regarding a proposal to construct a 25.5 ft. x 16 ft. 2-story addition onto the south end of his seasonal residence at 236 West Summit Street. The proposed site plan indicates the new addition will maintain the existing side yard set-backs of approximately 4 ft. on the west side and 10 ft. on the east side. NOTE: The existing house does not sit squarely on the lot. The Village of Lakewood Zoning Law requires a minimum side yard set-back of 8 ft. as prescribed in Section #25-10, (E), [Single-Family (R-1) Residential District].

Mr. Louis Turcotte, a friend of the applicant, said he will be happy to briefly explain Dr. Evan's proposed addition. Mr. Turcotte said the actual addition will only extend an additional 12 feet towards the road because the 4 ft. wide overhang and porch will be torn off the back of the house. The main reason for the addition will be to add two second floor bedrooms and to add some living space to the first floor.

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Mr. Turcotte indicated that neighbors to the east and west of 236 West Summit Street have submitted signed statements saying they have no objections to Dr. Evan's proposed addition.

Motion by Duane Anderson, seconded by Willard Anderson, to grant/approve the application for a side yard set-back variance as submitted by Dr. Michael R. Evan, owner of the property at 236 West Summit Street, whereby he will be allowed to construct a 25.5 ft. x 16 ft. two story addition onto the south end of his residence at the above address having a side yard set-back of approximately 4 ft. from the westerly property line versus the required 8 ft.

Adopted: 4 ayes, no nays (Chandler, Blasius, D. Anderson, W. Anderson)

Board member Myra V. Blasius reminded her fellow board members that to abide by New York State's open meetings law, any discussions or decisions regarding any issues brought before them should be limited to this forum.

Meeting Adjourned: 7:07 PM

Joseph M. Johnson
Village Clerk/Secretary