

**BOROUGH OF WOODCLIFF LAKE
ZONING BOARD OF ADJUSTMENT
SEPTEMBER 24, 2013
7:30 P.M.
MINUTES**

Call to Order:

The meeting was called to order at 7:30 p.m. by Chairwoman Hembree.

Adequate Notice Statement:

The Chairman announced this meeting, in accordance with the Open Public Meetings Law, P.L. 1975, Chapter 231, at the Reorganization Meeting of January 22, 2013, in the Municipal Building. Notice of this meeting was posted, and two newspapers, The Record and The Ridgewood News, were notified. The public was advised of the Zoning Board's rule that the meeting will conclude at 10:30 p.m.

Flag Salute

Roll Call:

Christine Hembree, Chairwoman	Present
Marcia Denbeaux	Present
John Spirig	Absent
Robin Efron-Malley	Present
Brian Boffa	Present
Wilson Castrillon	Present
Dana Cassell	Absent
Victor Bongard	Present
Jay Ferreira	Present
S. Robert Princiotto, Esq.	Present
Darlene Green, Planner	Absent (not requested)
John Pavlovich, Traffic	Absent (not requested)
Brian Intindola (Neglia Eng)	Present
Kathy Rizza, Secretary	Present

Minutes:

The minutes from August 27, 2013 will be approved at the next meeting of the Zoning Board.

Old Business:

Adam and Randy Nassau 18 Knollwood Road Block 907, Lot 2.10 Pool – maximum total coverage variance

Gail Price, Esq. of Price Meese was in attendance as the Attorney for the Reiners and the Temple. Mr. Gary Newman, Esq. of Newman and Denberg of Fairlawn was present as the Attorney for the Nassau's. Publication and proof of service was reviewed by Attorney Princiotta and found to be acceptable. Chairwoman Hembree asked both sides what they were looking to accomplish at this meeting. Mr. Newman stated that the construction of the pool has begun and in order to complete the pool a portion of the driveway must be removed. The applicants have decided that they do not want to remove a portion of the driveway and instead want a lot coverage variance from the Board. They want to keep their driveway as it is. Chairwoman Hembree reviewed this application that originally appeared in July and was postponed in August. In August a pool permit was issued and the applicant stated that they intended to remove the driveway. On August 10, 2013 Mr. Saluzzi stated in writing that no certificate of occupancy for the pool would be issued without the applicant meeting certain conditions and tearing up the circular driveway. Ms. Price of Price Meese in Woodcliff Lake stated that she is here on behalf of the Reiners of 92 Indian Drive and the Temple of 87 Overlook Drive. Ms. Price stated that she has filed an appeal of the permit which is pending. Ms. Price was surprised that the permit was issued and this application before the Zoning Board was not withdrawn. She then received notice for leaving the driveway for this meeting. Ms. Price feels that this was intentionally done after the work on the pool was started. Additionally a 4' side yard variance is also requested. New plans have not been filed, but were distributed at this meeting. Ms. Price has not been able to verify anything since the plans were just received. She stated that she will request a 'stay' if testimony is not given tonight. Mr. Princiotta, Attorney for the Board, asked Ms. Price if her client received the new notice. He was told yes. Attorney Princiotta reviewed the application-

proof of service has been received and there are no exhibits as of yet. Mr. Newman stated that his client will withdraw the side yard variance request and just deal with the lot coverage variance. He continued to say that the plans were approved after careful review and a valid permit was issued.

At this time the following exhibits were marked as evidence:

First proof of publication -	Exhibit A-1
Affidavit of Service -	Exhibit A-2
Second proof of publication -	Exhibit A-3
Saluzzi letter of July 8th -	Exhibit A-4
July proof of publication #2 -	Exhibit A-5
Certified mail receipts -	Exhibit A-6

Mr. Newman stated that he is prepared with four witnesses. He has a landscape architect, an engineer, Mr. Nassau and Mr. Bruce Greenberg. Ms. Price stated that she has the following witnesses: Mr. and Mrs. Reiner, a civil engineer, a landscape architect, a representative from the Temple and other neighbors. Ms. Price objected to the July notice. The lack of block and lot information in the first notice was discussed. Mr. Newman stated that the notice issue must be resolved first. Proof of service for the second notice was submitted to the Board Attorney. A copy of the letter that was sent is still needed. Ms. Price has no objection to the plan submitted today. She also stated that the appeal was filed within 20 days. This letter was submitted by Mr. Newman. Attorney Princiotta thinks that this application was published three times. He asked Ms. Price if she had any objection to the applicant proceeding. Ms. Price stated that she has no objection to the application proceeding at their own risk and is not waiving her rights at this time. Mr. Newman would like to make sure that the plans and the notice are reviewed. He would, at this time, like to postpone the hearing until the next meeting. Ms. Price stated that if this is postponed by the applicant she would like a ‘stay’ – and no use of the pool and no further construction as the MLUL (Municipal Land Use Law). Mr. Newman feels there is no basis for a ‘stay’, no basis for an appeal. He feels with four (4) young children at this residence it is unsafe to stop the construction. Ms. Price stated that the Reiners of Indian Drive will testify that there has been use of the pool already. At this time it was discovered that there were two (2) different plans distributed at this meeting – plan A and plan B. It was also determined that on the site plan there are errors on the zoning schedule. Attorney Princiotta stated that a ‘stay of proceeding’ not construction is more logical.

Ms. Price disagrees. Mr. Princiotto stated that the Board can find that a condition of the permit has not been complied with and that no further construction should take place. This was discussed in detail between Mr. Newman, Ms. Price and Attorney Princiotto. An email from August 19th from Mr. Saluzzi was discussed. Mr. Princiotto stated that the Board does not have the jurisdiction to issue a restraining order, but they could ask for a stop work order if there is a violation. Mr. Newman stated that his clients will not leave an open and hazardous situation. Mr. Princiotto stated that maybe a permanent fence needs to be installed. Mr. Newman stated that Mr. Saluzzi is at the site on a systematic and regular basis to monitor the construction. Chairwoman Hembree stated that the applicants could have what there are supposed to – take out the driveway and proceed with the pool. In the beginning Mr. Saluzzi stated that the driveway had to be removed before a CO would be issued for the pool – not before the construction of the pool commenced. Mr. Ferreira stated that stop work order should be issued when the pool is done and the driveway has not been removed. Mrs. Denbeaux asked if the CO should be issued before or after the pool is filled. She was told after the pool is complete and filled is when a CO would be issued. Chairwoman Hembree feels that there should be a permanent fence. Mr. Ferreira agrees. Mr. Princiotto asked if there is any objection the fence. He also stated that the pool should not be used with a CO having not been issued, and that the CO should not be issued until the lot coverage issue is complied with. Ms. Price is concerned with the construction of a patio while the setbacks are not confirmed – the patio construction should be postponed. Mr. Princiotto stated that the patio should be installed within compliance of the permit issued. Ms. Price stated that the plans have changed. Mr. Princiotto stated that we no longer know what the plan is. Mr. Newman asked what the zoning violation is. Ms. Price stated that there is a lack of compliance with coverage and the enforcement of that provision. Ms. Price spoke regarding the playground that had to be removed to the Nassau's property from the property of the Temple. This is impervious coverage that Mr. Saluzzi did not see. Mr. Newman objected to this statement. He further stated that for this Board to hear an appeal it has to be related to a zoning ordinance. Ms. Price stated that there are zoning issues referred to in her appeal. Mrs. Denbeaux asked what happens if inadequate information is given to the Construction Code Official. She was told that an application for a variance would have to be applied for or the structure would have to be removed. Mr. Newman questioned what the zoning issue would be. Mr. Princiotto asked about a seepage pit. Mr. Newman stated that it has not been installed as of yet. Mr. Ferreira asked if

the drainage has been piped in yet and where is the water going. He would like to see a drainage plan.

Mr. Brian Intindola of Neglia Engineering stated that his firm has approved the drainage plan conditional on the soil moving permit and PERC test and having the driveway removed. A PERC test is needed for the area of the seepage pit. Mr. Princiotto stated that a change of plans could impact the approved drainage plan. There seems to be confusion as to which plan should be used.

Ms. Price is concerned with the open items for this application. She stated that a full topography must be done. Mr. Ferreira stated that the topography of the rear corner is what is needed. This will be discussed with the applicant's contractor. Mr. Princiotto feels that it is best not to continue at this time. Ms. Price asked that direction be given to Mr. Saluzzi as to the PERC test, pavers and drainage. Attorney Princiotto informed Mr. Newman to talk to his clients after what has been said at this meeting. He will tell his client to talk to their Engineer who should talk to the Borough Engineer to correct the problem if there is one. Mr. Newman stated that the PERC test will be done tomorrow. Mr. Intindola stated that he is anticipating a new site plan that will be C variance compliant. Mr. Ferreira requested a site plan that will show drainage for the next meeting. No drainage work will be done until it is approved by the Borough Engineer. A topography report will be done in addition to the PERC test. Ms. Price stated that the Borough Engineer review as to minor vs. major. Mr. Newman will consult with his clients as to whether or not to continue or just remove the driveway and proceed with the pool.

Mr. Princiotto stated the following as the understanding of what needs to be done –

The applicant will have a PERC test done as soon as possible and a topographic study will be completed if a C variance is requested. The drainage plan will not be implemented until the Borough Engineer approves it. A soil conservation plan must be maintained during this process. All information will be shared with the engineers. A safety fence will be allowed if necessary depending on the construction of the pool and will be approved by the Construction Code Official and/or the Borough Engineer.

Mr. Newman stated that his clients may decide to rip out the driveway and proceed with the original plans. Pavers will not be done unless this

application is withdrawn. No patio will be installed if the applicant proceeds with this application – only if the Borough Engineer feels it should be done for safety reasons. There will be no objection to construction being performed for public safety or property safety. If the applicant withdraws this application they can finish the project as per the approved plans. Ms. Price stated that all rights and remedies are reserved.

This matter is carried to the October 22nd meeting of the Board. Further notice is not needed. The applicant will inform the Board if the application is withdrawn.

Resolutions:

Donald Perez
4 Benjamin Court
Block 705, Lot 5
Maximum total coverage variance – pool, etc.

This resolution will be approved at the next meeting of the Zoning Board.

Mary Lee Harrison
56 Heather Hill Lane
Block 901, Lot 3
Front Porch addition – front yard variance

The resolution was read by all Board members. A motion to approve was made by Mr. Ferreira and seconded by Ms. Efron-Malley, and carried by all as follows:

Mr. Bongard	Yes
Mr. Castrillon	Yes
Ms. Efron-Malley	Yes
Mr. Ferreira	Yes

The resolution will be published as required and will be available for viewing at Borough Hall.

The meeting was adjourned on a motion from Ms. Effron-Malley, seconded by Mr. Castrillon and carried by all.

Respectfully Submitted,

Kathleen S. Rizza, Secretary