

ZONING BOARD OF ADJUSTMENT MINUTES
REGULAR MEETING
November 13, 2008

Kevin Martin opened the meeting at 8:00 p.m. by reading the Open Public Meetings Law Statement:

This is a Regular Meeting of the Zoning Board of Adjustment. In compliance with the Open Public Meetings Law, notification of this meeting has been sent to all officially appointed Township newspapers & notice is posted at River Vale Municipal Offices.

<u>ROLL CALL:</u>	Kevin Martin	Chairman	Present
	Lorraine de Stefan		Absent
	Melvina Fakazis		Present
	David Rice		Present
	Thomas Pospisil	Vice-Chairman	Present
	Robert Adamo		Present
	Joseph Massin	Alternate # 2	Present
	Robert Fortsch	Alternate # 1	Absent
	John Donovan		Absent
<u>ALSO PRESENT:</u>	Brian Giblin	Board Attorney	Present
	Lauren Roehrer	Land Use Administrator	Present
	Damian Gil	Former Land Use Administrator	Present
<u>ABSENT:</u>	Elliott Sachs, Board Engineer		Absent

Robert Adamo arrived after roll call and approval of minutes. (8:10 p.m.)

Melvina Fakazis arrived 8:25 p.m.

Kevin Martin thanked Damian Gil for his years of service to the Board and the Community. On behalf of the Board, Mr. Martin welcomed Lauren Roehrer, Land Use Administrator.

MINUTES:

A motion by David Rice, seconded by Joseph Massin to approve the minutes of October 16, 2008; on roll call vote, all in favor, the motion carried.

VOUCHERS:

None

APPLICATIONS (continued applications)

Talukdar, Orangeburgh Road, Block 601, Lot 10

Violation of 142-263

Board Attorney Brian Giblin announced that he received a letter from the applicant's attorney. The applicant is out of the Country and provided written notice that they are not seeking default approval. The Board members granted the request to carry to the next meeting. No new notice is required.

Rasekhi, 607 Orangeburgh Road, Block 601, Lot 8

Violation of 142-248

Russell Huntington, Attorney represented the applicant. He advised that the Board has heard the evidence pertaining to his client's application. Mr. Huntington had additional points to call to the Board's attention. He had sent a memorandum to Mr. Giblin summarizing his applicant's legal position and circumstances. Mr. Huntington advised that the Township Police Department was contacted and they responded that there is no view obstruction at the site. Mr. Huntington provided a photograph marked as Exhibit A-9 showing over-growth and the condition of the adjacent property. He advised that if the adjacent property were to be developed, his applicant would agree to a condition of an approval that the fence would be removed and replaced with a conforming fence.

A photograph was provided and marked as Exhibit A-10. The photograph showed a proposed "stepped up" fence by 4" of each 6 ft. high, 8 ft. wide section should the adjacent property be developed.

Mr. Huntington cited case law. His applicant meets variance criteria. There is no detriment to the community and there is a better visual effect then if there were no fence at all.

Melvina Fakazis arrived 8:25 p.m.

Kevin Martin opened the meeting to the Board for comment.

Mr. Giblin commented on Mr. Huntington's statements.

Mr. Huntington reported that when the applicant purchased the house in 1988, the house came with a C/O and a fence that was set in concrete at that time.

Mr. Massin inquired if there was a determination of the fence being "substantially destroyed" and what the guidelines were. He also inquired about other remedies that might be available to the applicant.

Mr. Huntington responded that there were a number of incidences over a period of time.

Mr. Giblin advised that the applicant replaced the fence without getting a permit so the Zoning Officer did not have a chance to view the damage to the fence.

Mr. Martin felt that the current fence was not attractive. The adjacent property should be cleaned up. A 6 ft. high 100% closed fence does not meet Township criteria. Eight sections of 6 ft. fence in the front yard are not good and the fence is not 50% open as required.

Mr. Huntington advised that his client has lived with the adjacent property disgrace for 19 years and his

only protection from the mess on the adjacent property is the fence.

Mr. Rice felt that the applicant presented compromises that should be considered to allow for a potential approval.

Mr. Adamo stated that there was no enforcement regarding the fence in 1988 when the house was purchased. He felt the best interest is to have a fence because there is no enforcement for the adjacent property to clean up their act. Kevin Martin would like to see the fence stepped up starting at 3 ft. high with a deed restriction in case of future legal fees. Mr. Huntington advised that a deed restriction needed to be clear and tied into the issuance of a building permit or structure next door. Mr. Huntington's client agreed to start with 3 ft. high step up in 8 ft. wide sections towards the rear yard.

Mr. Adamo suggested adding that the fence would be replaced, if necessary, with a conforming fence or whatever the current regulation is at the time.

Mr. Giblin reviewed the conditions that the fence would be returned to conforming status if the adjacent property gets developed by building permit, and the applicant would pay legal fees if there is a future law suit and this will be indicated as a deed restriction; the fence will start at a 3 ft. high step up in 8 ft. wide sections high towards the rear yard.

A motion by Robert Adamo, to approve the application with conditions as discussed, seconded by David Rice; on roll call vote, David Rice, Thomas Pospisil, Joseph Massin and Robert Adamo voted yes; Kevin Martin voted no; the motion carried.

RESOLUTIONS

None

DISCUSSION

None

ADJOURNMENT:

Upon motion seconded and carried, the meeting was adjourned at 9:20 p.m.

Respectfully submitted,

Sylvia Kokowski, Recording Secretary