

**INC. VILLAGE OF MANORHAVEN
BOARD OF ZONING
33 Manorhaven Blvd. Port Washington, 11050
October 16, 2019 at 6:30 p.m. - MINUTES**

Call to Order: 6:34 p.m.

Pledge of Allegiance: Rita Di Lucia

Attendance: Jeremy Devine, John Di Leo, Jerry Volpe, Joseph Zimbardi, Patrick Gibson - Chair, Sharon Abramski – Village Clerk, Jeffrey Blinkhoff – BZA Attorney; Andrew Levenbaum - BZA Engineer.

EXECUTIVE SESSION:

- Jeremy Devine moved to enter into Executive Session at 6:35 p.m. to seek the advice of Counsel; seconded by Jerry Volpe; unanimously carried.
- Joe Zimbardi moved to close the Executive Session at 6:55 p.m. and resume the regular session; seconded by Jerry Devine; unanimously carried.

ADJOURNMENTS:

Z-598- 21 Juniper Road, Port Washington, NY, 11050, S-4, B-45, L-70, 71, 72 in Zone R-1. Applicant, 21 Juniper LLC, Moritz Maroof, seeks variances: (1) from Section 155 – 13.1(F) of the Village Code which requires a 20 foot rear yard setback in order to allow: emergency escape and rescue window wells that encroach into the required rear yard setback by 3 feet 8 inches, and to permit the installation of air conditioning condensers that encroach into the required rear yard setback by 3 feet 6 inches; (2) from section 15-13.1(G) to construct a building with height of 27 feet where no building shall exceed 26 feet in height from the established grade; (3) from section 155 – 13.1(J) to construct a two-family dwelling resulting in building lot coverage of 30.21% when the maximum building lot coverage permitted for a two-family dwelling is 25%; and (4) from section 155-13.1(K) to construct a building with total lot coverage of 50.15% where total building lot coverage shall not exceed 50% of the area of the lot.

Board/Applicant Comments:

- Anthony Piacentini, Esq., counsel to the applicant, was corrected on his estimation of 28.43% lot coverage. Andrew Levenbaum, Village BZA Engineer, rebutted with the correct lot coverage of 28.96%
- Patrick Gibson reiterated Board comments from the previous month stating that the Board was looking for nothing higher than 28% lot coverage.
- Charles D’Alessio, architect for the applicant, stated that he made an effort to reduce the dimensions of the home. Some of the footage was added to the rear of the property. He explained his changes to the drawings.
- Anthony Piacentini asked if they could condition an approval based on adhering to 28%.
- The BZA and Patrick Gibson said no, they would like to review the actual drawings at the next meeting.

Public Comment:

- Linda Nittolo asked if the application would automatically be granted and approval if it is 28%. She said her greatest concern is that the applicant will eventually become an absentee landlord.
- Jeremy Devine moved to adjourn the hearing until 11/19 at 6:30 p.m.; seconded by Joe Zimbardi; motion unanimously carried.

Z-599 – 2 Cornwall Lane, Port Washington, NY 11050, S-4, B-103, L 62 in Zone R1. Applicant, Raymond Lim, seeks the following variances on a one story rear addition: (1) from Section 155-13.1E of the Village Code, seeking an east side yard of 6.33 feet, a west side yard of 5.583 feet and an aggregate of 11.91 feet from the legal minimum side yard setback of 6 feet with a minimum aggregate of 14 feet. (2) from Section 155-13.1 (J) of the Village Code, seeking 32.42%, where the stated the maximum lot coverage for a two-family dwelling shall be 25%; (3) from Section 155-35 of the Village Code, seeking an

emergency/rescue window well opening projecting into the east side yard by 3 feet, where emergency escape and rescue opening window wells which encroach into side yards are not permitted.

Board/Applicant Comments:

- Andrew Kaplan, architect for the applicant, explained the configuration and “why” the Design is the Way it is. The home was originally a one-family which was converted to a two-family. In 1985. They are seeking 31%.
- Patrick Gibson, Board Chair, asked if they heard the previous application and the discussion regarding 28%.
- Andrew Kaplan noted that the home is at 30% lot coverage now.

Public Comment: None

- Jeremy Devine moved to adjourn the application to November 19 at 6:30 p.m.; seconded by Joe Zimbardi; motion unanimously carried.

Z- 595 - 59 Orchard Beach Boulevard, Port Washington, NY, 11050, S-4, B-59, L-636 in Zone R-4.

Applicant, Pond Ridge Homes, seeks a variance: (1) from Section 155 – 16 (B) of the Village Code in order to construct a building with a building area of 45.02% of the lot area where the maximum permitted is 35%; (2) from section 155 – 35 (A) of the Village Code in order to maintain the eaves that project into the side yards by 42 inches when cornices, eaves, and gutters cannot project more than 24 inches into side yards; and (3) from section 155 – 35 (E) of the Village Code in order to maintain an open side entry stair leading to the second floor under both the left and right side of the building when the Code does not permit entry stairs on the side of the structure leading to a second-story, either open or enclosed, covered or uncovered.

Board/Applicant Comments:

- Albert D’Agostino, Esq. representing the applicant, introduced expert Barry Nelson. Nelson spoke in May with regard to the character of the neighborhood. He feels that if the project is completed as is, it will not be detrimental to the neighborhood. He feels that the completion of the project will be good for the area and values will appreciate. He feels that vacant properties are detrimental to the neighborhood.
- Patrick Gibson felt that they needed to see a new survey.
- Andrew Levenbaum, Village Engineer, agreed that he would also like to see a new survey.
- Albert D’Agostino presented **Exhibit 11**, a letter from Laurence Haynes of Haynes Land Surveyors regarding the “as built” survey of the property. He also referred to a 1992 letter regarding balconies from the neighboring property that he felt encroached into the side yards. He explained that this is a big reason his applicant’s building is so close to the building next door. Their property is encroaching on the applicant’s property.
- Jerry Devine referred back to a conversation regarding that classification of the property at 59 Orchard Beach Blvd. He said it was never government property. When homeowners failed to pay taxes, it was put back to its original classification.
- Albert D’Agostino said that if there are reasonable conditions to come into compliance, the Board should tell them.
- Patrick Gibson commented on some of the obvious problems including the side entrances.
- Jeff Blinkoff noted Village Law as it is applicable to variances before the Board. It is a violation to have side entries.
- Albert D’Agostino asked for a determination by Bill Rogel. He said he received two letters that differed He Said he was not aware of the emails from John Amisano and asked that the file be made part of the record. Jeff Blinkoff said that the file needed to be reviewed first.
- Bill Rogel, Village Building Superintendent, read his report on the background of the 59 Orchard Beach Blvd. project and applications. The Clerk marked this as **Exhibit 12**.
- Albert D’Agostino questioned the cantilevers and balcony. He asked if this was the Village’s interpretation or Bill Rogel’s.
- Jeff Blinkoff said that the interpretation was from John Amisano, former part-time Acting Building Superintendent. That interpretation was not before the Board.

- Albert D'Agostino felt that what was submitted was not consistent with the "Toner" interpretation. There are differences in rationale.
- Jerry Devine noted that with administration changes, there are personnel changes. This took place during a transitional period.
- Patrick Gibson said that the BZA is not an investigative Board; they follow the advice of Counsel.
- Albert D'Agostino said that the chief building official has the authority to make a determination. Interpretation is up to that person., It does not matter if a new person came in. His client would like to bring this to a conclusion. If the BZA has reasonable conditions, he will bring them to his client.
- Patrick Gibson agreed that the applicant deserves a consistent interpretation.

Public Comment:

- *Nick Marra said that he found the email in the old building files for the property. It was open for anyone to get. He feels there are many questions and still no answers. He feels the whole project is convoluted. The moratorium was lifted early. He discussed a few of the problems as the building was being constructed. He questioned why Mayor Giunta ordered Amisano to stay away from the building/ He wants to know what happened during the early stages. Something wasn't done correctly. The neighboring residents deserve to know what happened to the concrete PSI tickets. He wants to see proof before they get to the concessions. Everyone wants to move forward, but they should set the record straight.*
- *Alice Aboody reiterated the history of the property. Taxes were suddenly raised from \$50 per family to \$1,00 per fa resident. The inheritors agreed to sell the property. The neighbors approved a two-story building. The seawall was destroyed. After Storm Sandy, the neighbors compromised and said "yes" as long as their view would not be blocked. Water I not rising due to current conditions. This was not built according to what the neighbors agreed to. This is what it is, not an interpretation.*
- *Barbara Thermos said she looked at the plans before the building was built and it was made larger and larger. She requested that Village Officials be on site when the new survey is being done. Builders did not take neighbors into consideration. It is built out of character and is an eyesore.*
- *Patrick Gibson said that the applicant should give the names of three surveyors and the BZA Board will pick one to do a new survey.*
- *Amy Prohaska requested that a fireman from our area make a safety determination.*
- *Nick Marra said this all has to do with the motives of Mayor Giunta and Attorney Toner. The moratorium was released early to fit their criteria.*

Board/Applicant Comments:

- Patrick Gibson to D'Agostino that there are inconsistencies and side entrances will not be permitted.
- Albert D'Agostino said that Clemency was unavailable that evening to address the 3rd party inspections.

D'Agostino presented the following exhibits:

- 13-a** – 10/9/15 Tast & Clemency letter to the Village of Manorhaven regarding 3rd party concrete inspections.
- 13-b** – 11/23/15 Tast & Clemency letter to the Village of Manorhaven regarding 3rd party concrete inspections.
- 13-c** – 1/25/16 Tast & Clemency letter to the Village of Manorhaven regarding 3rd party concrete inspections.
- 13-d**– 2/23/16 Tast & Clemency letter to the Village of Manorhaven regarding 3rd party concrete inspections.
- 13-e** – 2/23/16 Tast & Clemency letter to the Village of Manorhaven regarding additional 3rd party inspections.
- 13-f** – 11/22/16 Tast & Clemency letter to the Village of Manorhaven regarding 3rd party concrete inspections.
- 13-g** – 11/22/16 Tast & Clemency letter to the Village of Manorhaven regarding 3rd party concrete inspections.
- 13-h** – 2/6/17 Tast & Clemency letter to the Village of Manorhaven regarding 3rd party concrete inspections.
- 14** – 11/16/15 - Email from Bill Clemency to John Amisano regarding concrete

- Patrick Gibson strongly recommended that the applicant contact the Village Engineer and Superintendent to work through the discrepancies on the drawings.

- Jeremy Devine moved to adjourn the application to December 10 at 6:30 p.m.; seconded by Joe Zimbardi; motion unanimously carried.

ADJOURNMENT: 8:50 p.m.

- Joe Zimbardi moved to close the meeting at 8:50 p.m.; seconded by Jeremy Devine; motion unanimously carried.

*** The next BZA Meeting is: November 19, 2019 at 6:30 p.m.**

SHARON NATALIE ABRAMSKI, RMC, CMC

Village Clerk-Treasurer, Secretary to the BZA

Dated: October 16, 2019