

Town of Stuyvesant
Zoning Board of Appeals Meeting
February 22, 2023

Members in Attendance:

M. Pino, Chair
A. Abbati
S. Taylor
C. Sweningsen
S. Montie
B. Rohrer
Christopher Langlois, Attorney for ELP portion
T. Rappleyea, Town Attorney for Griffith portion
Multiple residents of the community

Not in Attendance: K. Handy

Chairwoman M. Pino asks Secretary P. DeLong to take roll call for attendance.

Chairwoman M. Pino opens with the Pledge of Allegiance and calls the meeting to order.

Call to Order: 7:01 pm

Motion: to approve the minutes from the January 18, 2023, meeting made by C. Sweningsen; seconded by S. Montie. All in favor.

M. Pino states the next item on the agenda is appeals filed regarding the ELP Solar site plan review Tax ID 31.1-15. She asks C. Langlois to speak.

C. Langlois recalls at the meeting last month in January, the board issued determinations by vote on four matters that were pending related to the ELP Stuyvesant solar project. The first matter was dealing with dismissal of grievance filed by Paula Van Meter on July 15, 2022, and second determination on the dismissal of grievance filed by Mr. Peter D. Lease dated July 11, 2022, the third determination was to grant an appeal filed on behalf of Peter D. Lease and Paula Van Meter dated November 1, 2022 and the 4th and final determination was to grant an appeal filed by John F. Morgan, also received November 1, 2022. The Board has issued its determination of those matters, he has drafted and provided to the board four separate decisions with four matters to determine, and he believes the Board members have had an opportunity to review those decisions, so those decisions are now before the board get formal adoption. He suggests, because some of them are quite lengthy, that the Board is inclined to make a motion to waive the reading of each of those decisions and move to the actual adoption.

Motion: to waive the reading of the four decisions made by S. Taylor; seconded by S. Montie. All in favor.

C. Langlois identifies the first decision as relative to the notice of grievance filed by Paula Van Meter received on July 15, 2022. This decision memorializes the basis for the ZBA's determination to dismiss that notice of grievance.

Motion: to adopt that decision by the ZBA made by S. Montie; seconded by M. Pino. All in favor.

C. Langlois identifies the second decision relates to the board's determination of the notice of grievance filed by Mr. Peter D. Lease dated July 11, 2022. This decision also memorializes the ZBA's determination to dismiss that appeal.

Motion: to accept and adopt that decision by the ZBA made by C. Sweningsen; seconded by S. Montie. All in favor.

C. Langlois identifies the third decision related to the appeal filed on behalf of Peter D Lease and Paula Van Meter dated November 1, 2022. The decision memorializes the ZBA's determination to grant that appeal and to thereby reverse the September 2, 2022, determination of the Town Code Enforcement Officer for the reason stated therein.

Motion: to adopt that decision by the ZBA made by C. Sweningsen; seconded by B. Rohrer. All in favor. C. Langlois identifies the fourth decision in connection with the appeal filed by Mr. John F. Morgan received on November 1, 2022. This decision memorializes the board's determination to grant the appeal, to thereby reverse the September 2, 2022, determination of the Town Code Enforcement Officer for the reasons stated therein.

Motion: to adopt that decision by the ZBA made by S. Montie; seconded by C. Sweningsen. All in favor. C. Langlois states, that resolves all four of those matters with the decisions adopted. He adds, copies of those decisions as adopted will now be filed with the Town Clerk's office, and copies will be sent to the attorneys for Mr. Lease and Ms. Van Meter, Mr. Morgan and to the attorney for ELP. M. Pino asks to clarify that copies go to all the participating parties and C. Langlois confirms to Mr. Lease and Ms. Van Meter through their attorney, to Mr. Morgan directly, and Mr. Khosrova on behalf of ELP.

M. Pino observes this ends their portion of the ELP solar project and she cannot advise where it will go from here, and thanks everyone for their input. She confirms the secretary has 5 days to file with the Clerk.

M. Pino continues to the next item on the agenda, and area variance filed by Christopher Griffith for 7 Church Street, for a fence and a pool on the property, tax ID 52.1-1-45. M. Griffith provides the Board with a 3D rendering of the property and a picture of the kind of fence, a copy is **NOT** given to the secretary for the file.

S. Taylor makes a statement the Town Attorney has advised him that a member of the Zoning Board of Appeals must recuse themselves or actually be recused in a matter involving a financial conflict of interest, in a member's sole discretion, and a member can elect to recuse themselves from a matter in which they find it difficult to maintain objectivity. Two members of the ZBA live within feet of 7 Church St., and speaking only for himself he has concluded that the proposed 7 foot high privacy fence, landscaping, and stretching 120 feet in front of the residence is not ideal, therefore, he wishes to recuse himself from this matter. He adds, he looks forward to making his case for denying an area variance, as the height of the fence, he has an issue with at the public hearing. He also asks to move the date of the Public Hearing due to surgery he has had scheduled for several weeks. S. Taylor goes and sits in the audience.

M. Pino asks the Board if anyone has questions about Mr. Griffith's paperwork he has turned in.

M. Pino asks about the type of fence, stating that the seven foot fence was going to be on the Church St. side, there would be snow plowing, and she wondered what kind of material would withstand the snow flying against it.

C. Griffith states he had done most of this work before he bought the property with the previous building inspector and the previous Highway supervisor. He adds, on the property there are 2 telephone poles, one which is actually physically on the property, within the property line on the south side, and then on the north east side on Church Street, is the other. He observes that they will not be plowing snow that close being there are telephone poles. So, the fence would sit 5 feet behind each of the telephone poles, which would then make it effectively 7 feet off the property line. He compares solid surface fence to porous fence that the snow could go through.

S. Montie asks to clarify the distance between the edge of the pavement to his fence. He speaks on his experience of plowing snow.

A. Abbati states she has a wire mesh fence for horses that is 10' off the road, and the force of the snow from the plows still puts stress on the fence though it has open squares.

S. Montie voices concern that the fence may come down if too much snow stacks up against it and to consider that snow in the construction of the fence.

C. Griffith states he is willing to make provisions for how it needs to be constructed or sign that the Town has no liability for the snow pushing the fence over.

M. Pino, S. Montie and C. Griffith discuss all the good work that has been done on the building.

C. Sweningsen asks to clarify the difference between the originally submitted drawing, and the 3D drawing simply, that the 3D drawing shows the seven-foot height ending at the South end, and the height of the fence on the South end.

C. Griffith explains would he love to leave it exposed at the end, when they drive in, they can see straight through to the church, the 9J side is far lower below the property line, but on the Church Street side the headlights go right into the property. there is no privacy and adds it's a very non-conforming property.

C. Sweningsen and M. Pino discuss the height of the fence, if he changed it to 4 feet on that side so drivers can see for distance.

C. Griffith states he walked the property with Chucky Stiffler last year for that very reason, because the road is so far elevated that drivers can see the distance and there's no blind spot created at all.

M. Pino asks about the 9x15 plunge pool, and if the end is left open, what is the barrier for the pool?

C. Griffith answers that the 4-foot fence will run the whole way down the 9 J side.

M. Pino observes that the 4-foot fence is being built on top of the already established stone wall.

C. Griffith confirms she is correct and discusses the height in its entirety on his best guess, confirming that the entire property will be enclosed.

C. Sweningsen and C. Griffith discuss if the fence will turn or not turn. No determination is made, but preferable to the homeowner it will not turn. They also discuss if there is shrubbery at the top of the fence. It is determined no, and the homeowner does not know at this time where shrubbery would be placed. C. Sweningsen states he is trying to ascertain what application they have in front of them.

A. Abbati asks if it will have a concrete foundation under the fence. C. Griffith states he had not planned on that.

M. Pino points to the drawing and asks about the fence. C. Griffith explains the height and that it will enclose the entire property.

S. Montie and C. Griffith discuss the material of the fence.

T. Rappleyea voices that the ZBA needs to know exactly, not probably, but what is the plan.

M. Pino affirms they need it to be specific before they can approve, disapprove, or even set it for a public hearing, adding usually when people come before the board with this schematic, it's exactly the way they want to do it with the dimensions, etcetera.

C. Griffith, M. Pino, C. Sweningsen, and T. Rappleyea discuss the pool, the height of the fence and the setback.

C. Griffith notes it's debatable in terms of what is considered front and back. He explains the definition of the front of a property is where the main access of where you go in and out of the building.

M. Pino defers to K. Haberland. He explains if the front of the flagpole is considered the front property line that it meets all setbacks permitted. If the board sees the Church Street side the front property, then it does not meet the setbacks for the fence. He had sent this application to the board just to clarify what is considered the front property.

M. Pino and S. Montie discuss the front entrance of the building.

C. Griffith reiterates he will only need a building permit if the fence goes up above 4 feet but below 8 feet.

Motion: to set the application for public hearing made by S. Montie; seconded by C. Sweningsen. All in favor. They have a request before them that needs to be a Board decision. The Board discuss possible dates for the public hearing. (It is determined later that the public hearing is not needed.)

S. Taylor asks about the height of the fence being above eye level and people can't even see those beautiful gardens that he talked about, and that's the part I'm having issues with the height.

M. Pino affirms that the variance is for the setbacks and not the height of the fence, therefore no modification is needed.

S. Taylor asserts again his concern with the height of the fence.

C. Griffith replies he is willing to work with the height to be neighborly.

B. Rohrer asks to clarify, if someone wants to put up a 4-foot fence, it doesn't require any setbacks.

B. Rohrer and M. Pino discuss the height and determine that a 7-foot fence would require a setback of 2 feet off the boundary.

C. Griffith describes the location of the fence with relation to the telephone poles on the property, it is non-conforming and relative to the property line, it's actually different on either side. He adds, logically, it makes sense to set it behind an equal distance behind those two telephone poles.

K. Haberland explains, if the Church Street side is considered the front property line, then it does not meet setbacks. (10 feet from the front, 2 feet from the side, 2 feet from the road) If the Board determines that the flagpole triangle is the front of the property line then he meets all setbacks.

T. Rappleyea explains the address is irrelevant because if the driveway comes out on 9J, then the address is 9J. He adds, the address is irrelevant as to whether it's front, side or back, it's really what the determination is of this board.

C. Griffith, K. Haberland, and the Board discuss.

Motion: determining that the front yard will be facing South, side yard would be Church St., the other side yard 9J and the rear yard is the piece of property between the church and the residence next door made by B. Rohrer; seconded by S. Montie.

M. Pino states, now that the board has determined where the front yard is, the board can see that the applicant meets all set back requirements for the fence and pool. The applicant can get his permit and there is no need to have a public hearing.

Motion: to adjourn made by B. Rohrer; seconded by S. Montie. All in favor.

Adjournment: 8:08 pm

Respectfully submitted.

Patricia DeLong
Zoning Board of Appeals Secretary