

ZONING HEARING BOARD MEETING
August 17, 2009 MINUTES

Members Present:

P. Andrew Diamond
Allan Tedesco
Glenn Geisel
Mark Veon – Not Present
Charles Hawkins

Township Staff Present:

Ronald Henshaw, Director,
Community Development
Eric Kaunert, Community Planner

Court Stenographer:

Jamie Burns

Mr. Diamond called the meeting to order at 7:34 p.m.

Old Business: None

New Business:

AP # 31103 - An appeal of John R. Orié on behalf of Dennis Neuman. The request is for a variance of Chapter 27, Zoning, Part 4 (District Regulations), Section 27-403.6.E(2) (Minimum Yard Requirements) located at 131 Oakview Drive, Cranberry Township, PA 16066 (Map & parcel no. 130.S32.A312).

Mr. Diamond read the application into the record.

John R. Orié presented the variance request.

Ron Henshaw represented on behalf of the Township.

The applicant presented their case and explained that Dennis Neuman was requesting one (1) variance:

1. The request is for a variance of Chapter 27, Zoning, Part 4 (District Regulations), Section 27-403.6.E(2) (Minimum Yard Requirements) located at 131 Oakview Drive, Cranberry Township, PA 16066 (Map & parcel no. 130.S32.A312).

The Neuman's have constructed a pool in their backyard and wish to construct a pool house in the southwestern corner of their backyard. The Neuman's were aware that there are side yard and rear yard setback requirements for the pool house which are required by Cranberry Township. To ensure that the pool house structure was within regulations the Neumans utilized Sperdute Surveying and had a marker placed on the property identifying the rear property line. However, the Neumans contend that during construction of the pool that the marker was somehow moved. This caused the pool house pad to be constructed in the required 10 foot rear yard setback.

As a result, the Neumans are asking for 3.4' rear yard variance on the left and a 9.18' rear yard variance on the right. The variance would allow a 197.3' pool house with restroom facilities to be placed entirely on the Neuman's property, but within the required setback, at the rear of the property adjacent to Oakview Estates Homeowner Association owned open space. The Neumans contend that they are asking for this variance because they have spent a lot of money starting this structure, and they are asking for this variance because of the hardship created by a mistake of the property stake being misplaced or moved at some point.

The Neumans also contend that the structure is an expensive and aesthetically pleasing structure that will not be an eyesore for neighbors and cannot be seen from the street. They

also contend that the backyard is down slope from the house to the pool area and they have put several steps in place to provide a walkway back to the house. The Neumans stated that they have children and having a restroom near the pool would be safer for the children.

Upon Mr. Orié and the Neumans completing their justification of their variance request, Mr. Orié provided the Board with a survey and a discussion ensued:

Mr. Geisel stated that the survey was not clear and although Mr. Orié provided an exceptional overview of the situation, that the survey was incomplete and that the appellant was not prepared.

Mr. Diamond asked if there was an issue with the Oakview Estates Homeowners Association.

Mr. Orié replied that there is a pending court case with the Homeowners Association. Mrs. Neuman stated that the Homeowners Association initially granted them approval to build the structure and the Association stated that this would not be a big deal. Mrs. Neuman also stated that the Oakview Estates Homeowner's Association Covenants disallows sheds but does not mention pool houses.

Mr. Diamond asked Mr. Henshaw if the Neumans applied for the proper permits through the Township.

Mr. Henshaw replied that the Neumans were not required to obtain a building permit because the statewide building code does not require buildings under 1,000 Square Feet to have a building permit. As a result, the Township is only required to issue a zoning permit, which was issued.

Mr. Diamond asked if they had to receive a permit to tap into the Township's Sewer and Water.

Mr. Henshaw stated that because they are tapping into their current sewer and water lines, that they would not be required to obtain a permit. The statewide building code also does not allow the Township to require a permit.

Mr. Geisel asked if the pool house could be smaller to require less of a variance.

Mrs. Neuman replied that it could not be made smaller because it will look like an outhouse or a shed, which could put them in violation with the Homeowners Association.

Mr. Diamond asked Mr. Henshaw if the setback was a Planned Residential Development (PRD) setback violation or a Township code setback violation.

Mr. Henshaw stated that the property was in a PRD and that the PRD does not have an accessory structure setback and therefore must rely on the base zoning setback, which is Residential – 1 (R-1). R-1 mandates a 10' rear setback and a 10' side accessory structure setback.

Mr. Diamond then stated that he would like to hear from the Surveyor.

Mr. Sperdute from Sperdute Surveying stated that he was out at 131 Oakview Drive on three (3) occasions. The first time he was at the site he placed a steel pin in the ground at the corners of the property. The second time he was at the property he said that he saw that the original pin was moved 67". At this time he also placed pins identifying the Geyer property which is next door to the Neumans. The third time Mr. Sperdute was asked to visit the lot, he confirmed his second pin placement of the 131 Oakview lot.

Mr. Geisel then stated that it is not the responsibility of the Cranberry Township Zoning Hearing Board to make a decision regarding Homeowner Association Covenants and that will be decided by

the court system. He stated that we are here tonight to make a determination based on the Township regulations.

The Board asked the Townships' position on the matter. Mr. Henshaw stated that the Township does not oppose the request for variance.

At this time the Board requested public comment from those in attendance.

Ed Kress, representing the Oakview Estates Homeowners Association addressed the Board first by stating that the concrete pad is on common area and that anything over 6% is not a de minimis zoning variance request. He stated that this request is a maximum request and also stated that the slope portrayed by the Neumans was not a true reflection of the property.

Mr. Kress then stated that there is no hardship in this situation. Mr. Kress said that the hardship was a situation created by the Neumans, is not a common variance request, and therefore should not be approved by the Board.

Mr. Kress went on to state that a pool house is a luxury item and is not a necessity. It also destroys the character of the neighborhood and for these reasons should not be approved by the Board.

Mr. Jackanic of 133 Oakview Drive, lives next door to the Neumans, and stated that the slope is not as great as stated by the Neumans and that there are three (3) steps on the back of the property which is different from what has been stated by the Neumans. Because the slope is not as great, their argument stating that the distance and slope creates a safety hazard for their children is weakened. Also, this makes the structure more visible from his property.

Mr. Geyer of 129 Oakview Drive, and lives next door to the Neumans stated that this variance if approved will destroy the character of the neighborhood, neighbors will see it, and people will be able to inhabit the structure. He also stated that the Neumans did not make contact with the Geysers when constructing their pool or pool house.

Mr. Jim Scarnati of Oakview Estates stated that approving this variance will create a precedent for approval of other pool houses in the neighborhood, which will destroy the character of the neighborhood.

A motion was made by Mr. Tedesco to table a final decision until the next Zoning Hearing Board Meeting of the variances requested, which consist of a 3.4' rear yard variance on the left and a 9.18' rear yard variance on the right of Chapter 27, Zoning, Part 4 (District Regulations), Section 27-403.6.E(2) (Minimum Yard Requirements). The variance would allow a 197.3' pool house with restroom facilities to be placed entirely on the Neuman's property, but within the aforementioned setback, on the rear of the property adjacent to Oakview Estates Homeowner Association owned open space. The decision will be tabled until the solicitor can review all information. Mr. Hawkins seconded the motion. Motion passes 4 – 0.

A motion was made to amend the previous motion allowing both the applicant and Mr. Kress to provide additional information as it pertains to the variance. Mr. Kress will be allowed to provide information due by Monday, August 31st to Mr. Orie and to the solicitor. Mr. Orie will be allowed to review the information and provide additional information to Mr. Kress and to the solicitor by Monday, September 7th. The Board will reconvene on Monday September 21st to review this variance request. Mr. Diamond seconded the motion. Motion passes 4-0.

Approval of Minutes

Motion by Mr. Geisel to approve the minutes. Seconded by Mr. Tedesco. Motion passed unanimously.

Adjournment

Motion to adjourn the meeting by Mr. Tedesco, seconded by Mr. Diamond. Motion passed unanimously. Meeting adjourned at 9:05 p.m.

Respectfully Submitted,

Eric Kaunert
Community Planner