

ZONING BOARD OF APPEALS

September 4, 2007

Present: Michael Dudick, Chairman, Gilbert Kortz, Joel Koval,
Christopher Lemire (for Robert Ritter), Jessica McCarthy
Eric Ophardt

Absent: Dale Gleason, Robert Ritter

Also Present: Joel Peller, ZBA Counsel
Steve Myers, Director, Building & Zoning

Mr. Dudick called the meeting to order at 7:06 PM. Mr. Dudick announced that Mr. Lemire is sitting in for Mr. Ritter this evening.

OLD BUSINESS

1. An application from **Philip & Lisa Zanella**, requesting an area variance from Section 208-12 from the required 80 ft. front setback for a pool – proposed setback = 36. ft. – variance requested = 44 ft. The property is located at 450 Miller Road, Rexford. Permit #80669 (amended)

The secretary read the legal notice as it appeared in the Daily Gazette on August 30, 2007.

Mr. Peller explained that when there is an even number of board members sitting it is important for the applicant to know that the result could be a tie and therefore a tie is not a majority and therefore if the board did vote and it was a tie vote the application would not be approved. Therefore the applicant should have the opportunity to make a determination if they want the board to continue or if they would like to request the application be held over until there is an odd number of voting members.

Mr. Zanella stated that he would like to continue this evening.

Mr. Dudick explained that this application was presented fairly thoroughly at the last meeting but there was an error in the actual setback measurement and therefore this application had to be re-noticed.

Mr. Dudick noted that the public hearing was left open. There was no public comment. Mr. Dudick made a motion to close the public hearing, Mr. Kortz seconded, approval unanimous.

There were no board questions on this application and Mr. Dudick explained that the applicant has made fair notice as to why the pool could not be moved due to issues with the septic, well, and landscaping and tree cover. The setback variance is required because this is a corner lot, however it was not a corner lot when the applicant bought the property and had he put in a pool at that time a variance would not have been required.

Mr. Dudick made a motion to approve this application as amended. Ms. McCarthy seconded. Ayes: Mr. Ophardt, McCarthy, Lemire, Koval, Kortz, Dudick. Noes: None.

Mr. Zanella presented a revised application and plot plan showing the modifications to the setback.

Mr. Kortz made a motion to approve the minutes of August 21, 2007, Mr. Dudick seconded. approval unanimous.

Mr. Ophardt made a motion to approve the minutes of July 17, 2007. Mr. Lemire noted a correction from auto test to Otto test. The secretary stated that she has already made that change.

Ms. McCarthy asked who designated Chris Lemire was it Joel Peller or Joel Koval. Mr. Peller responded it was probably him. Mr. Koval stated that Mr. Peller mentioned to him that the designation should be done but he believes Mr. Peller actually did it. Ms. McCarthy stated that she is not completely sure who actually did it. Due to the discrepancy the approval of the minutes of July 17, 2007 was tabled until the next meeting on September 18, 2007 so the board members could listen to the portion of the tape in question.

Mr. Dudick stated that he forwarded some information to Board members that still need to take educational classes. Mr. Dudick told those interested to contact the secretary if they want to attend.

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Mr. Kortz made a motion to adjourn the meeting at 7:23 PM, Mr. Ophardt seconded, approval unanimous.

Respectfully Submitted,

Judy Lamb
Secretary

Cc: Town Clerk, Town Board, Zoning Board Members, Joel Peller, Counsel, Steve Myers,
Department of Building and Development, Planning Board, ECC, Assessor, Highway