

**DELRAN TOWNSHIP  
ZONING BOARD  
REGULAR MEETING MINUTES  
MUNICIPAL BUILDING  
MAY 19, 2016 – 7:15 PM  
OPEN PUBLIC MEETINGS ACT**

Delran Township Zoning Board regular meeting of Thursday, May 19, 2016 was called to order by Mr. Schultz at 7:20 pm, in the Delran Township Municipal Building.

The Open Public Meeting Act Announcement was read by Mr. Schultz and the pledge of allegiance was performed.

**ROLL CALL**

**Present:** Mr. Schultz, Mr. Smith, Mrs. Parento, Mr. Jeney, Mr. Wuebker & Mr. Hewko

**Absent:** Mr. Gonzaga, Mr. Jesuele & Mr. Lyon

**Professionals:** Eileen Fahey, Esq. Board Solicitor; Terry Combs, PP, Board's Planner;  
Joe Raday, PE, Board Engineer

**PUBLIC HEARING**

**Mark & Rochelle Samara  
127 Pine Valley Road  
Block 173, Lot 14  
ZZ2016-02  
Bulk Variance**

**DISCUSSION**

Mr. Schultz asked that we wait for a few more minutes since we only have 6 members to see if anyone else would be coming. We had LIDL on the agenda for this evening but the documents for review were submitted too late to our professional's for review. They already noticed so we will just carry over without re-notice till next month but they waived any applicable time period for us to act.

**Mr. Hewko made a motion to continue the LIDL application to our June 16, 2016. Mr. Smith seconded it. The results are as follows:**

**AYE:** Mr. Schultz, Mr. Smith, Mrs. Parento, Mr. Jeney, Mrs. Wuebker & Mr. Hewko

**Absent:** Mr. Gonzaga, Mr. Jesuele & Mr. Lyon

**MINUTES**

**Regular meeting minutes from the April 21, 2016 meeting.**

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**Mr. Hewko made a motion to approve the minutes from April 21, 2016 meeting. Mr. Smith seconded it. The results are as follows:**

**AYE:** Mr. Schultz, Mrs. Parento, Mr. Hewko  
**ABSTAIN:** Mr. Smith, Mr. Jeney, Mrs. Wuebker  
**Absent:** Mr. Gonzaga, Mr. Jesuele & Mr. Lyon

**RESOLUTION**

**Resolution # ZZ2016-05  
Dunkin Donuts-GNJ, Inc.  
Block 115, Lot 32  
4009 Bridgeboro Road  
ZZ2015-10  
Use Variance**

**Mr. Jeney made a motion to approve the Dunkin Donuts resolution #ZZ2016-05 for the use Variance. Mrs. Parento seconded it. The results are as follows:**

**AYE:** Mr. Schultz, Mrs. Parento, Mr. Jeney & Mr. Hewko  
**ABSTAIN:** Mr. Smith & Mrs. Wuebker  
**ABSENT:** Mr. Gonzaga, Mr. Jesuele & Mr. Lyon

**Resolution #ZZ2016-04  
Berk & Berk Management, Inc. (Hunter's Glen)  
Block 9, Lots 33, 34, 43, 44 & 45  
3001 Route 130 South  
ZZ2016-01  
Interpretation, Use Variance & Site Plan**

**Mr. Hewko made a motion to approve the Berk & Berk Management, (Hunter's Glen) resolution # ZZ2016-04 for the Preliminary & Final Site plan approval of the Splash Deck and the Recreation area. Mrs. Parento seconded it. The results are as follows:**

**AYE:** Mr. Schultz, Mrs. Parento & Mr. Hewko  
**ABSTAIN:** Mr. Smith, Mr. Jeney & Mrs. Wuebker  
**ABSENT:** Mr. Gonzaga, Mr. Jesuele & Mr. Lyon

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**DISCUSSION CONTINUED**

Mark & Rochelle Samara came before the Board to testify. Ms. Fahey explained that we only had 6 Members here to vote. They need 5 affirmative votes for the approval and we only have 6 Members present, so that means they have to get 5 out of 6 instead of 5 out of 7 which is a full Board. She decided to proceed with the testimony. Ms. Fahey swore both in. Mrs. Samara stated that they are proposing a 43.5 x 22.5 inground pool. Their lot measures about 18,000 sq. ft. and they have frontage on 2 lots, Windmoor and Pine Valley Rd. There is the house, a shed, a deck, patio, hot tub and a pond all of which were there when they purchased the house about 11 years ago, except for the pond. They are requesting bulk variance for front yard setback of 35ft requesting it to go down to 25ft. to fence on Windmoor. The front yard setback along Pine Valley Road is 35ft. which they are requesting 32.25 ft. An impervious coverage of 50% which they were not aware of when application was made. They were informed from the Planner in his letter.

In terms of hardship they are a corner lot with frontage on two streets with a great amount of property in the front of house that is unusable. That lot is pretty big compared to other lots in the development in Tenby Chase. The change in the zoning requirements. On the plot plan it shows a 30 ft. setback which was the original setback when they purchased their property. Apparently zoning changed the setback over the years to 35 ft. setback. So they feel that also imposes a hardship on them. It is very irregular in its shape with a lot of frontage on Pine Valley Rd. and a small amount of frontage on Windmoor but as the property goes back it becomes very irregular. Triangular in shape and a lot of things going on in the back yard which most wasn't of their doing. The shed, the house and where it is located, they feel that also contributes to the hardship. They don't want to have to remove the shed & the deck in order to install a pool in that area of the yard. The only area available is the other side. The house juts out into that open area and the pool will require an 8ft. setback from the house so without relief, they will have to have a tiny pool. They at one time had a bladder pool there which was very small. They would like a larger pool for their enjoyment. The rear yard setback is 15 ft. and they are seeking a variance to allow the pool to be wider and longer due to the required code of 8ft from foundation of house.

There will be no disturbance to the sight triangle area along Windmoor Road and Pine Valley Rd. Existing sight distances will continue to be maintained. They have always been good neighbors and have always maintained the property and will continue to do so. If it is required to add landscaping along the fence area, they will do whatever the Board's requests are.

They feel that the request for variances to allow an inground pool to be situated in the front and rear yards, to be reasonable and fair and within the parameters of the R1 Zoning District.

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Mr. Combs asked if applicant could tell them a little about the existing fence on Pine Valley & Windmoor Road. They had a 6' dilapidated stockade fence that was setback at almost 30'. They replaced the front portion of the fence on Pine Valley with a 4' high white vinyl picket fence. There is a jogged out portion around a retaining wall in the front of property where the fence setback at the rear of that is 42' which is well beyond the 35' requirement. The section off of Windmoor Rd is setback 35' which is in compliance. Applicant offered (Exhibit A-1) which shows photographs of the subject property. The current fence has the proper safety latches for pool compliance because they had a big bladder pool for quite a few years.

Mr. Combs stated that the property is located in the R-1 Zoning District in Tenby Chase Subdivision, which appears to have been developed under the R-1 cluster option, which permits development of single family detached housing units on 10,000 sq. ft. lots, with a 15% open space set aside. The standard lot size for conventional development in the R-1 District is 15,000 sq. ft. minimum with a front yard setback of 35', a rear yard setback of 35' and a side yard setback of 10' with a maximum Impervious Coverage of 50%. The maximum coverage by accessory use is 25% of rear yard area. The applicant stated she is about a 22% impervious coverage with the size pool they are requesting.

The applicant is requesting Zoning relief to relocate and replace fencing on their property to create an enclosed area large enough to accommodate a 22.5' x 43.5' inground pool in the side yard area adjacent to Windmoor Road. The pool coping will be 29' from the Right of Way of Windmoor Road and the concrete decking will be 3' closer. The pool will be located adjacent to the rear property line with a setback of 5' to the pool coping and 2' to the pool deck.

The applicant currently has a 4' high white vinyl picket fence which is approximately 40' off of Pine Valley Road and about 30' off of Windmoor Road. The applicant would like to relocate the existing fence section along Pine Valley from its current 40' setback to 32'. That will now make that part of the fence consistent with the existing setback of the garage and front porch. In addition they are looking to replace the fence which runs parallel to Windmoor Road as a setback of 25'. The new fence appears to be 10' closer to the Right of Way. The applicant notes the front yard setback established at the time the house was constructed was 30'. The Township Ordinance states that the replacement fences must conform to the current setback requirements in effect at the time of permit application. This is a corner property so the setback on the side will have to adhere to the front yard setbacks.

One of Mr. Combs' recommendation is that if the Board acts favorably on this, you should get a property survey done showing all the current accessories and what you're adding. This way it will show a final drawing of the fence and the pool. Everything is so tight on the lot that you need someone to sign a plan and say this is what it is.

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Mr. Combs stated that it is a large lot for the development but an oddly configured lot. A lot of the property is eaten up by the front yard areas and the rear of the lot converges to a point so it's not a lot of usable area even in the rear yard. There is a hardship but as he said he believes that adhering to the original setback is probably a reasonable request. He does feel that the pool is a little too big for this lot. He mentioned to applicant that they might want to consider scaling it back a little bit if the Board has concerns with some of the Variances. They are looking for a fence variance, and a pool variance. The accessory use area requirements for a swimming pool is 600sq. ft. and they are looking for 978 sq. ft. (355-18 I (1) d) is the ordinance. A Variance is required for the proposed 29' pool setback on Windmoor Road where 35' is required. The ordinance is in section 355-18 I (6). A Variance is required for the proposed 5' rear yard setback where 15' is required of the proposed pool measures from the coping to the property line. The ordinance is 355-18 I (12).

**OPEN TO THE PUBLIC**

**Mrs. Wuebker made a motion to open to the public. Mr. Smith seconded it. The results are as follows:**

**AYE:** Mr. Schultz, Mr. Smith, Mrs. Parento, Mr. Jeney, Mrs. Wuebker & Mr. Hewko

**Absent:** Mr. Gonzaga, Mr. Jesuele & Mr. Lyon

Gary Chiaccio who lives at 110 Fox Chase Drive was sworn in. He is the neighbor in their yard. He is there to make a statement not a complaint. He has lived in his house 29 yrs. He's wife just recently retired from teaching at the Delran Middle School after 25 years. He stated that they have a great relationship with them and has their daughter over and their grandchildren goes over to the applicant's house. He isn't too pleased with request for a variance for the size of the pool they proposed. There are a lot of accessories structures in the rear yard. Large deck with large patio off of that, large shed, hot tub, swing play gym, pond. The use to have a bladder pool but has since been removed. He brought pictures (Exhibit 0-1) a group of 10 pictures of the back yard. He enjoys the view out the back of his kitchen and den looking down Windmoor for 29 years. He feels if they extend the fence out 10 additional feet to be at a setback of 25' would devalue his property do to the view being obstructed by a fence. He objects to the length of the pool out towards Windmoor. He stated that you can see where they had a nice size bladder pool at one time. He thinks that maybe they should put the pool on the opposite side of yard. It would require removing the hot tub, pond and shed but still keep the deck. The lot they have has always been irregular and the 35' setback was put into effect for a reason. He doesn't think that the pool should be 3 ft. from his property in the rear or extending the side yard setback out to Windmoor more than it is now. He believes we should keep the property value up by sticking to the current ordinance and not change things that might affect them negatively.

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He said he would be fine with a smaller size pool for them to enjoy as long as they keep the fence where it is. He was asked if he experiences any flooding in his rear yard. Mr. Chiaccio said they don't have the best drainage mainly because of the clay that these properties were built on.

**CLOSE TO THE PUBLIC**

**Mrs. Wuebker made a motion to close that portion that was open to the public. Mr. Hewko seconded it. The results are as follows:**

**AYE:** Mr. Schultz, Mr. Smith, Mrs. Parento, Mr. Jeney, Mrs. Wuebker & Mr. Hewko

**Absent:** Mr. Gonzaga, Mr. Jesuele & Mr. Lyon

Mrs. Samara stated that they do have a wonderful relationship with the Chiaccio family. She understands that the proposed size of pool might be too big but she wants to reiterate that everything that is on her property was there except for the pond when they moved in. They had a 2 tier deck that was larger than the patio that they installed after removing the lower rotten portion of the deck. The only thing that they did was to replace the garden with a pond next to the hot tub. It would be a hardship to remove all that stuff that they didn't create. The shed is a pretty big structure with electric running to it from the previous owner. They obtained the proper permits to remove and replace with pavers the bottom portion of the 2 tier deck and the pond. The pool that was there was 12 x 24 and didn't have to meet setback requirements due to being an above ground bladder pool. They planned on continuing the current fence they have and adding landscaping to it but were told it had to be screened with a 6' high fence, so they opted to put that there. They would have preferred keeping what they had and just adding on to it. She stated that she has rode around in Tenby Chase and has taken pictures (Exhibit A-2) of other properties that have 6' solid fences almost out to the sidewalk. They are open to whatever the Board would suggest.

Several of the Board members suggested that they want to see a smaller pool and not as much of an encroachment on the rear and side yard. They believe it would fit in better with the neighborhood and the setback requirements in order to protect the neighbors. There is a neighbor there they have to consider since it is going to impact him the most and create less of an impact on Windmoor. The applicant presented a smaller size 20 x 40 (Exhibit A-3) pool for the Board to consider. The applicant stated that it would be 720 sq. ft., 24% more of the requirement of 600 sq. ft. She also presented a 19 x 39 (Exhibit A-4) size pool. They talked about pivoting the pool a tad to try to get it in that area. They discussed to put the equipment along back but she thought having the equipment closer to house and not the neighbor's fence due to noise would be better. A statement from Ms. Fahey mentioned it to be 741 sq. ft.. The applicant then stated that the 20 x 40 would be 720 sq. ft., so it is at a 24% difference in the requirement. Then a 39 x 19 would be 666 sq. ft. of maximum area used, making it 11% over.

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They discussed the placement of where the pool and the equipment will be placed so the setbacks wouldn't be that much. Mr. Jeney stated that he would feel most comfortable with the 19 x 39 because it maximizes the setback in the rear where there is at least a minimum of 8' and has flexibility to move it around if necessary. Mrs. Wuebker expressed that the normal square footage is 600 maximum and this would only be about 10% over.

Mr. Schultz asked if someone would like to make a motion for 19 x 39 pool size, 30' setbacks in the front yard on Pine Valley and Windmoor for the fence, rear yard setback at a minimum of 8' and to submit a survey with the drainage and swale information to the Professional's for their approval. Correction on Pine Valley with a 32.5 setback. If you skew the pool it will adjust it so it will be a minimum of 30' for setback on Pine Valley. They will keep the 4' picket fence and add any if needed with the 4' picket fence. Mr. Jeney feels that this now will fit the need of the applicant and also will reflect the respect of the neighbor.

**Mrs. Parento made a motion for a minimum 30' setback on Pine Valley and Windmoor Road, rear setback at minimum 8', a 4' picket fence with no landscaping required, and survey with the grading plan, drainage swale and typography for the Professionals approval, 19' x 39', 660 sq. ft.. Mr. Jeney seconded it. The results are as follows:**

**AYE:** Mr. Schultz, Mr. Smith, Mrs. Parento, Mr. Jeney, Mrs. Wuebker & Mr. Hewko

**Absent:** Mr. Gonzaga, Mr. Jesuele & Mr. Lyon

**Mr. Smith made a motion to adjourn at 9:30. Mrs. Parento seconded it.  
Motion was carried with a unanimous voice vote.**