

MINUTES
Town of Westfield Board of Adjustment
April 12, 2021

The Westfield Board of Adjustment met on Monday, April 12, 2021. Due to the coronavirus pandemic, this meeting was held remotely through Zoom Webinar. The public was provided with access to join the webinar through Zoom.

In compliance with Chapter 231 P.C. OPEN PUBLIC MEETINGS ACT of the State of New Jersey, adequate notice of this meeting was provided by posting on the public bulletin board and publication in the newspapers that have been designated to receive such notice: the Westfield Leader and the Star Ledger.

Chris Masciale opened the meeting by calling all present to join in the Pledge of Allegiance to the Flag.

REGULAR MEETING:

Chairman Masciale opened the meeting by calling all present to join in the Pledge of Allegiance to the Flag.

Diane Dabulas, Board of Adjustment Attorney, gave a brief statement explaining the Board's powers, purpose, and criteria for granting variances.

ROLL CALL: Chris Masciale, Frank Fusaro, Michael Cohen, Allyson Hroblak, Carla Bonacci, Charles Gelinas
ABSENT: Eldy Pavon, Matt Sontz, Samuel Reisen
Also present: Diane Dabulas, Esq., Donald Sammet, Town Planner, Lyndsay Knight, Zoning Officer, and Linda Jacus, Board Secretary

ADOPTION OF MINUTES:

Chairman Masciale called for a motion to adopt the minutes of the March 8, 2021, meeting. Frank Fusaro made a motion to adopt the minutes; Charles Gelinas seconded.

ALL IN FAVOR: Chris Masciale, Frank Fusaro, Michael Cohen, Allyson Hroblak, Carla Bonacci, Charles Gelinas
OPPOSED: None
ABSTAINED: None
ABSENT: Eldy Pavon, Matt Sontz, Samuel Reisen

Motion carried.

ADOPTION OF RESOLUTIONS:

Chairman Masciale called for a motion to adopt the following resolutions for applications acted upon at the February 18, 2021, and March 8, 2021, meeting:

Lawrence & Donna Darrow, 4 Carol Road, application approved with conditions.
Jeffrey & Elaine Heintz, 564 Sherwood Parkway, application approved with conditions.
Adam & Jessica Weinstein, 417 Baker Avenue, application approved with conditions.
Daniel Jemal, 16 Breeze Knoll Drive, application approved with conditions.
Cara Tabatchnick, 1000 Wychwood Road, application approved with conditions.
Alex Mednick & Allison Stone, 621 Short Hills Court, application approved with conditions.
Pawel Kierzkowski, 171 Tudor Oval, application approved with conditions.
Thomas Sevchuk, 888 Winyah Avenue, application approved with conditions.

Frank Fusaro made a motion to adopt the resolutions; Charles Gelinas seconded.

ALL IN FAVOR: Chris Masciale, Frank Fusaro, Michael Cohen, Allyson Hroblak, Carla Bonacci, Charles Gelinas
 OPOSED: None
 ABSTAINED: None
 ABSENT: Eldy Pavon, Matt Sontz, Samuel Reisen

Motion carried.

Chairman Masciale stated that the vote of any Board Member on the full set of memorializing resolutions would not be construed to include participation by any member in voting on any resolution for which s/he did not vote, nor did not vote in favor of the action taken by the Board (pursuant to N.J.S. §40:55D-10g).

Chairman Masciale made the following announcement:

The following application has been carried to the May 10, 2021, meeting:

Gilberto Arroyo, 230 Elizabeth Avenue

The following application has been withdrawn:

Kenneth & Nancy Leonard, 206 Dickson Drive

CARRIED FROM MARCH 8, 2021:

Monica Alvarez & Alvaro Quintana, 158 North Euclid Avenue 10/1/2020
 Applicants are seeking approval to construct an addition contrary to Section 11.08E6 of the Land Use Ordinance. Ordinance requires a minimum side yard setback of 10 feet. Proposed setbacks are 7.6 feet/11.5 feet. **Application deemed complete on November 24, 2020. 120 day decision date is March 24, 2021.**

Applicants not present for meeting; will be carried to the May 10th meeting.

Howard & Nadine Mandel, 25 North Wickom Drive 10/14/2020
 Applicants are seeking approval for a shed and basketball backboard contrary to Section 13.02F1, 13.02F3, 12.04F1 of the Land Use Ordinance. Ordinance allows a basketball backboard in the rear yard only. Proposed is the street side yard. Ordinance requires a minimum setback of 15 feet for game courts. Proposed is 6 feet. Ordinance allows a maximum building

coverage of 20%. Proposed is 21.2%. **Application deemed complete on November 24, 2020. 120 day decision date is March 24, 2021.**

James Foerst, Esq., (159 Millburn Avenue, Millburn) appeared on behalf of the applicant. Mr. Foerst stated there are three variances being requested, two for the location of the basketball court, and one for increased building coverage for the shed. We were here in February and the Board was concerned about by the location of the fencing and the basketball hoop in the street side yard. It was suggested the applicant move everything back at least 15 feet from the property line. A revised survey, was marked as Exhibit A-1 and a photo was marked as A-2, Mr. Foerst stated we took into consideration what the Board suggested and the needs of the family. The proposal is to have the fence 10 feet from the curb and move the basketball court away from the neighbor's property to other side of the driveway. The shed will be moved to the back corner of the property, but would be only about a foot off of the property line to keep some open space in the backyard. A new variance would be required for the setback of the shed, the applicants are looking to leave the asphalt in the town right of way.

Open to public questions and comments.

Michael Wirkowski (66 Tamaques Way) stated he lives diagonally across the street from property and is not in favor of the application. He referred to other properties in the neighborhood who installed their fencing within the required setback.

Jean Reichard (relative of homeowner at 65 Tamaques Way) stated she is speaking on behalf of her sister, who has an issue backing out of her driveway and would like a clear view. The rule to have the fencing 15 feet off the property was put into place for a reason.

Closed to public questions and comments.

The Board agreed the applicant is trying to get maximum use out of their yard, and appreciated the applicant moving the basketball hoop and the fence back. There was a serious concern about the placement of the fence and the immediate neighbor being able to back out of their driveway safely. It was suggested the applicants move the fence to the required setback of 15 feet and that they remove the asphalt in the right of way.

Open to public questions and comments.

Michael Wirkowski stated he supports the revisions being suggested for the application with the fence at 15 feet and the asphalt being removed.

Closed to public questions and comments.

Chairman Masciale called for a motion. Frank Fusaro made a motion to approve with the condition that the remaining portion of the asphalt not be used as a game court, the asphalt in the town right of way will be removed, the fence will be moved back to 15 feet, the shed remain as a temporary structure, the shed will be relocated to the corner of the rear property with a one-foot setback, and the basketball hoop is permitted to be located less than 15 feet from the property line; Michael Cohen seconded.

ALL IN FAVOR: Chris Masciale, Frank Fusaro, Michael Cohen, Allyson Hroblak, Carla Bonacci, Charles Gelinas
 OPPOSED: None
 ABSTAINED: None
 ABSENT: Eldy Pavon, Matt Sontz, Samuel Reisen

Motion carried.

Application approved.

Alyssa Stanek, 251 East Dudley Avenue

11/16/2020

Applicant is seeking approval to construct an inground swimming pool and a patio contrary to Section 12.04G of the Land Use Ordinance. Ordinance allows a maximum coverage by improvements of 20%. Proposed is 30.5%. **Application deemed complete December 28, 2020. 120 day decision date is April 27, 2021.**

Chairman Masciale stated this application was before the Board last month, and there was concern about the proposed coverage with the pool and patio being 1/3 over what is allowed. The applicant agreed to revise the application based on the Board's comments.

Chairman Masciale swore in Allyssa Stanek, and her landscape architect Mark Nissim (1520 Pine Grove Avenue). The Board accepted Mr. Nissim's credentials as a licensed landscape architect.

Ms. Stanek stated we took into account everything that was suggested at the last meeting. The pool fencing was added to the plan, the pool equipment was added into the coverage, and portions of the tennis court were shaved off.

Mr. Nissim stated the plan has been revised per the Board's comments. We added a fence that is 6 feet tall with a portion of the fence being open for a view of the pool from the house. The pool equipment was added to our coverage calculation, and the green areas around the tennis court are the areas that will be removed; there is asphalt there now which will be removed and will be grass which will reduce the coverage.

It was suggested by the Board to held reduce the coverage to remove the walkway in the front of the home on the right-hand side and that the proposed open fencing between the garage and the house needs to be changed to be a solid style fence.

Opened to public questions and comments. None. Closed to public questions and comments.

The Board agreed the property can handle what is proposed as it is three times the size of what is allowed. It was appreciated the applicant made reductions and they should be commended that they are looking to further reduce the coverage more be reducing the walkway in the front on the right-hand side. Conditions of approval include that the fence surrounding the pool area be solid and that applicant remove the walkway on the right side that leads to the driveway.

Chairman Masciale for a motion. Frank Fusaro made a motion to approve with the proposed conditions; Charles Gelinas seconded.

ALL IN FAVOR: Chris Masciale, Frank Fusaro, Michael Cohen, Allyson Hroblak, Carla Bonacci, Charles Gelinas
 OPPOSED: None
 ABSTAINED: None
 ABSENT: Eldy Pavon, Matt Sontz, Samuel Reisen

Motion carried.

Application approved.

Madeline Lee, 59 Michael Drive

2/8/2021

Applicant is seeking approval to install solar panels on the front roof façade contrary to Section 13.07E2d of the Land Use Ordinance. Ordinance allows front facing solar energy systems if the applicant provides certification there is not any other installation other than a front facing surface which will generate an SPR of 1. Proposed are front and rear facing solar energy panels.

Application deemed complete February 22, 2021. 120 day decision date is June 22, 2021.

Joshua Fischer (2211 Allenwood Road, Wall) appeared. Mr. Fisher is general counsel for Trinity Solar, Inc. He stated this an application for the installation of solar panels on the front and rear roof façade of the subject property. If we eliminated the panels proposed on the front of the house, the rear roof panels would only produce about 50% of the applicant's annual electric usage. We would need to install panels in the front and rear of the home to get close to meeting the applicant's annual demand.

Chairman Masciale swore in Laurence Murphy (526 Highway 206, Trenton). The Board accepted Mr. Murphy's credentials as a licensed engineer.

Mr. Murphy stated he has reviewed the solar panel ordinance, and rear facing roof panels do not supply enough energy production to meet the demands of the house. The house is not well oriented, it not a south facing roof which would be the optimum orientation, the rear roof faces west, and the angle of the roof is 18 degrees and 23 degrees where 30 degrees is required. There will be 32 panels in total, with 19 panels in the front and 13 panels in the rear, and one inverter on the side of the house. If we maximized the number of panels on the rear façade, it will only produce 52% of the energy needed. The rear roof is substantially undersized to accommodate all the panels we need to meet the electric demand of the house. The annual usage of electric for the applicant is 11,763 kilowatts, and if we comply with the ordinance, we can only produce 52 percent of the total demand with solar panels. We are asking for the panels in the front and rear yard to come as close to the annual electrical consumption as possible which would only be 89%. Not having front facing panels would pose a hardship as it would not produce enough energy to meet the annual usage. If we remove the front facing panels, we would lose 1/3 of the required production. Mr. Murphy stated according to the ordinance, the color of the solar panels, trim and any visible mounting hardware must closely match the color of adjacent roofing material. The roof panels will be flush mounted on the roof, but there will be a color difference between the roof and the panels. The roof shingles were installed a few years ago and solar panels were not anticipated at that time.

The solar panels were already installed, but are not operational. The work was done prior to coming before the Board, and there are not any permits issued. Richard Stone, Esq. (2211 Allenwood Road, Wall), general counsel for Trinity Solar, Inc., explained that in April 2020 we were doing our permitting remotely because of Covid. The sale and installation of the panels took place before the permitting department would do their work. As soon as we realized there were not any permits, we began the variance process.

Open to public comments and questions. None. Closed to public comments and questions.

The Board felt since the property is a corner lot you would see the panels from the street even if they were only on the back house. It was agreed that the work being done without permits was not intentional, and aesthetically there is not an issue with the look of the panels.

Chairman Masciale called for a motion. Frank Fusaro made a motion to approve; Charles Gelinas seconded.

ALL IN FAVOR: Chris Masciale, Frank Fusaro, Michael Cohen, Allyson Hroblak, Charles Gelinas
 OPPOSED: Carla Bonacci
 ABSTAINED: None
 ABSENT: Eldy Pavon, Matt Sontz, Samuel Reisen

Motion carried.

Application approved.

Joao Goncalves, 319 Elizabeth Avenue

12/29/2020

Applicant is seeking approval to install a six-foot fence in the street side yard contrary to Section 12.07C of the Land Use Ordinance. Ordinance allows a maximum fence height of four feet in the street side yard. Proposed is 6 feet. **Application deemed complete on March 4, 2021. 120 day decision date is July 2, 2021.**

Chairman Masciale swore in Joao Goncalves. Mr. Goncalves stated we are looking to construct a 6-foot vinyl fence around the property, which includes the street side yard that abuts Columbus Avenue. We are looking to put in a pool in the backyard in the future and would like to put the 6-foot fence in now rather than having a shorter fence and having to replace it down the road. The fence would run on the Columbus Avenue side from the property line in the back to the front corner of the house. There is currently a wooden fence there now which we are looking to replace with a 6-foot white vinyl fence. Lyndsay Knight clarified that a variance is required for the 6-foot portion of the fencing in the front and street side yard because only a four fence is permitted.

There was concern by the Board that there might be a line of site issue because it is a corner property, and it was agreed that the Board would prefer that the applicant leaves the fencing open on the side yard. The Board will permit a 6-foot fence on the Columbus Avenue side up until the rear corner of the house. From the rear corner of the house to the front the house on the Columbus Avenue side, only a four-foot fence is would be permitted.

Chairman Masciale for a motion. Frank Fusaro made a motion to approve with the proposed conditions; Charles Gelinas seconded.

ALL IN FAVOR: Chris Masciale, Frank Fusaro, Michael Cohen, Allyson Hroblak, Carla Bonacci, Charles Gelinas
 OPPOSED: None

ABSTAINED: None
ABSENT: Eldy Pavon, Matt Sontz, Samuel Reisen

Motion carried.

Application approved.

Chairman Masciale announce the following application will be carried to the May 10, 2021, meeting:

Maureen Higgins, 526 Hanford Place

Michael Guernsey, 154 Harrison Avenue

1/21/2021

Applicant is seeking approval of a side yard setback for an inground pool contrary to Section 13.02D3 of the Land Use Ordinance. Ordinance requires a minimum side yard setback for an inground pool of 15 feet. Proposed is 13.8 feet. **Application deemed complete on March 4, 2021. 120 day decision date is July 2, 2021.**

The applicant and his attorney Brian Maher, Esq. (570 Mt. Pleasant Avenue, Livingston) appeared. Mr. Maher stated the variance being requested pertains to a pool. The as built pool plan is not in compliance with Section 13.02D3 of the Ordinance which requires pools to be no closer than 15 feet from any side or rear yard property line. The as built survey shows the pool to be 13.8 feet from the property line. The pool company mistakenly took Mr. Guernsey's property line as the neighbor's fence instead of the real property line approximately two feet inward from the from the neighbor's fence. Looking at the survey, if the measurement was taken from the neighbor's fence, approximately two feet beyond Mr. Guernsey's property line, then the pool meets the requirement of being at least 15 feet from the property line. This was a mistake and the measurement of the side of the pool to the boundary line is off by 1.2 feet. Once the mistake was noticed, all work stopped.

Chairman Masciale for a motion. Frank Fusaro made a motion to approve; Charles Gelinas seconded.

ALL IN FAVOR: Chris Masciale, Frank Fusaro, Michael Cohen, Allyson Hroblak, Carla Bonacci, Charles Gelinas

OPPOSED: None

ABSTAINED: None

ABSENT: Eldy Pavon, Matt Sontz, Samuel Reisen

Motion carried.

Application approved.

There being no further business a motion to adjourn was made, seconded and carried. The meeting adjourned at 11:47 pm.

Respectfully submitted,

Linda Jacus
Board Secretary