

MINUTES
DECEMBER 2, 2014

BOARD OF ADJUSTMENT

LONG HILL TOWNSHIP

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The Chairman, Dr. Behr, called the meeting to order at 8:07 P.M. He then read the following statement: Adequate notice of this meeting has been provided by posting a copy of the public meetings on the municipal bulletin Board, by sending a copy to the Courier News and Echoes-Sentinel and by filing a copy with the Municipal Clerk on January 8, 2014.

MEETING CUT-OFF

Chairman Behr read the following statement: Announcement is made that as a matter of procedure, it is the intention of the Board of Adjustment not to continue any matter past 11:00 P.M. at any Regular or Special Meeting of the Board unless a motion is passed by the members then present to extend the meeting to a later specified cut-off time.

CELL PHONES AND PAGERS

Chairman read the following statement: All in attendance are requested to turn off cell phones and pagers as they interfere with the court room taping mechanism.

PLEDGE OF ALLEGIANCE

OATH OF OFFICE

Ms. Kiefer administered the Oath of Office to Michael O'Mullan as a newly appointed Regular Member and Thomas Sims as the newly appointed First Alternate. When Michael Pudlak arrived at 8:15 P.M., she administered the Oath of Office to him as a newly appointed Regular Member.

ROLL CALL

On a call of the roll, the following were Present:

Excused:

E. Thomas Behr, Chairman
Edwin F. Gerecht, Jr., Vice-Chairman
Michael Pesce, Member
Richard Keegan, Member
Michael O'Mullan, Member
Michael Pudlak, Member (arrived 8:15 P.M.)
Thomas Sims, 1st Alternate
Jeffrey Wills, 2nd Alternate

Jerry Aroneo, Member

Dan Bernstein, Bd. Attorney
Thomas Lemanowicz, Bd. Engineer
Kevin O'Brien, Bd. Planner
Cyndi Kiefer, Bd. Secretary

EXECUTIVE SESSION

It was determined that there was no need to hold an executive session.

PUBLIC HEARING (cont'd.)

VICTOR VERLEZZA
18 Stephanie Drive
Block 14205, Lot 5.13

#12-04Z
Bulk Variances

Present:

Victor Verlezza, Applicant
Edward A. Dreskin, Esq., Attny. for the Applicant
Christopher A. Melick, PP, Planner for the Applicant
David J. Schmidt, PE, Engineer for the Applicant

Mr. Dreskin introduced the planner, Christopher A. Melick, who reviewed the changes that had been made since the last meeting.

Mr. Bernstein reminded the applicant's engineer and planner that they were still under oath.

Mr. Melick stated that the first change was in the impervious coverage calculations.

Chairman Behr noted that with that correction, the applicant was no longer in violation.

Mr. Melick said that the second discrepancy was the need for a variance for lot width. The number in the zone was corrected and a variance was no longer required.

Mr. O'Brien and Mr. Lemanowicz were in agreement with that.

Mr. Melick addressed concerns raised about the close proximity of the retaining wall and pool to the property line. A portion of the existing retaining wall was shown to be removed and reconstructed so that it would be no closer than eight feet (8') to the property line. This enabled him to move the drainage pipes which were inadvertently placed on the neighbor's property to a location on the applicant's property.

Mr. Melick said that by relocating the wall, it enabled him to enhance the landscaping located above the wall. There would be an eight foot (8') area between the wall and the property line and landscaping would be concentrated in that area to provide a better buffer. Based on the enhanced landscaping, the fence on top of the wall and the wall itself, he felt that this would be a better barrier to the adjoining property.

Mr. Melick said that the area for the pool pump and filter had been relocated to an area within the retaining wall to keep it out of sight. The wall itself would act as a sound barrier. An additional variance would be required because the pool equipment area would be considered an accessory structure and would be located in the front and/or side yard.

Ms. Kiefer noted that Mr. Pudlak had just arrived (8:15 P.M.) The Board took a short break so that she could administer the Oath of Office to him as a newly appointed Regular Member.

Mr. Melick gave a short summary of his earlier comments so that Mr. Pudlak would be eligible to vote.

Mr. Melick provided a copy of his pool plan to Sylvan Pools and they replicated that configuration of the pool so that both plans would agree.

Mr. Melick said there would be a gate in the fence for access to the gas meter. That gate was relocated to the spot where the meter is currently read from.

Mr. Melick said that the variances required were C-1 variances because the diamond shape of the property was very unique along with the positioning of the house on the property (diagonally placed with respect to the property lines). Because of this, the proposed pool would be set in the front yard. He pointed out that the property was also encumbered by a very large stormwater detention basin in the back which took up almost the entire property in the rear. There was also a utility easement. Taking all those factors into account, the pool had been located in the only spot that could accommodate it.

Mr. Melick stated that the house was legally conforming on a lot and the pool would be a permitted use. He felt that the Positive Criteria for the variances had been met not only for the C-1 criteria but also the fact that it would promote the intent of the zone plan by allowing the pool to be constructed.

Mr. Melick said that, with respect to the Negative Criteria, most of the surrounding properties were buffered either by the detention basin or by the Verlezza's home itself. The only property that would be impacted negatively would be the property to the west and he felt that by relocating the retaining wall and enhancing the buffering, that negative impact would be mitigated. He felt that the variances could be granted without substantially impacting any of the other adjoining properties and that the application was consistent with the intent of the zone plan.

Mr. Melick requested that the drywell requirement be waived. A note had been added on the plan indicating that it was simply not practical. It was not his intent to say that it physically could not be placed on the property, however since so much of the property was encumbered by the detention basin placing a burden on the property and its owner, a waiver would be warranted for a drywell.

Mr. Melick indicated that the engineer would answer any questions about stormwater runoff and the details of a drywell, etc. however he would discuss available locations for a drywell, if one was required. He then stated that he had concluded his testimony.

Mr. Bernstein asked how big the drywell would be.

Mr. Melick said it would be a concrete tank, roughly five feet (5') in diameter and six feet (6') deep. There would be a stone envelope around the drywell that was usually about two (2) to three feet (3'). He said it was about an 11 foot diameter.

Mr. Bernstein asked for a comparison of the square footage of the drywell to the square footage of the property to determine how big a burden a drywell would be.

Mr. Melick said the drywell was about 100 square feet.

Mr. Schmidt said the entire property was 45,970 square feet however there was only 28,663 square feet of usable area.

Mr. Melick said it wasn't so much the size of the drywell but the placement. Existing improvements would have to be removed in order to install it which would be even more of a burden.

Mr. Lemanowicz said that the detail showed the drywell as eight feet (8') in diameter, not five (5), and five feet (5') deep, not six (6). He felt discussion of the drywell should be left to the engineer.

Mr. Lemanowicz said that the plan showed a tree being planted in front of the meter. He questioned if the gas company would accept that. There was a dogwood and three (3) azaleas.

Mr. Melick said that that was an existing planter. It could contain flowers or low vegetation however as long as it did not go up over the meter, he did not think it would be a problem. The meter reader would land his feet on the lower wall which was what he was currently doing. Mr. Melick indicated that there were other access options such as a remote reader on the meter. The property owner would work that out with the gas company.

Mr. Lemanowicz said that they should not lock in that planting just in case there was an issue. He felt that mention should be made that there might have to be some alterations at a later date if necessary.

Chairman Behr asked if any members of the public had any questions. Seeing none, he closed that portion of the meeting to the public.

David J. Schmidt of **D. S. Engineering** discussed the detention basin located on the applicant's property. He said that it maintained the volume and capacity for the entire subdivision of Long Hill Estates and noted that the applicant was required to maintain that basin. The basin was also located partially on the adjacent property to the west and that that property owner was required to maintain it according to a document filed with the county.

Mr. Schmidt said in the November 13, 2014 revision of his May 12 2014 report, "NJDEP" was changed to "NJPE" which was the licensed engineer who signed the report. The report was cited as "Revised Drainage Study for Long Hill Estates, Long Hill Road." It was done by **Murphy & Hollows Associates** and was dated March 6, 1995. In that report it showed that the basin was designed with additional runoff in it. With only 966 square feet of additional runoff from impervious surface coverage in this project, the applicant would not even come close to putting a dent in the volume capacity of this detention basin.

Mr. Lemanowicz had asked earlier what the design assumptions were and he wanted a copy of the revised drainage analysis from **Murphy & Hollows**. Mr. Schmidt got the report from the township to demonstrate those design assumptions and that report showed a very low run off prior to development when the entire site was wooded. The post-development analysis was, he felt, very generic and conservative. He felt that even with that analysis, there was additional volume available in the basin. He added that if more realistic numbers were used, there would be even more available volume.

Mr. Schmidt said that the applicant had been living on the property during all the recent storm events and the water never reached the top of the outlet structure. That meant to him that the basin was oversized. The water that was supposed to go there wasn't really going there. To install a drywell for only 966 square feet along with maintaining the basin would be too much for this application. It could be done, but he felt it was overkill. He added that he had designed over 100 detention basins and he did not see that waiving the drywell would set a precedent since there was already a detention basin on site. If it was upstream and there were no detention basin on site, it would affect the applicant however this increase would only affect Dr. Verlezza.

Mr. Lemanowicz discussed a chart in the "Revised Drainage Study" from **Murphy & Hollows** entitled "100 Year Storm Runoff Curve Numbers" (Table 3.1-2). He did not agree that it was overly conservative.

Mr. Lemanowicz said there were two (2) reasons for a drywell: first, to reduce runoff, and the second, to encourage groundwater recharge. The argument that the drywell would not be necessary because of the existing basin did not deal with the groundwater recharge issue.

Mr. Lemanowicz noted that he did have some issues with the design of the basin since basins were designed differently now. He felt that they could install a drywell behind the pump area and up on the lawn. Since there were no tree locations on the plan, he was unsure if the entire 1000 could be accommodated in that spot. It was the only spot that he could find. Other areas had plantings and he felt that they were of similar importance since they also absorbed water. He did not want to sacrifice the landscaped buffer between the neighbor and the pool for the drywell however, on top, where the roof leaders would have to be rerouted to get them back on the property, there might be a possibility.

Chairman Behr asked what the impact would be on the standard of "no net increase" if no drywell was installed.

Mr. Lemanowicz said that the increase in the scope of the town would be minimal but several minimal increases could add up to a significant amount or change. He said that drywells are installed for two reasons: the rate reduction and the recharge.

Mr. Gerecht noted that on this property there was no concern about run off since it would go either to the dry well or the detention basin. He asked if there was any potential, based on the proposed changes, without a dry well, of any of the water leaving the property.

Mr. Lemanowicz said once the pipe is moved, the water would eventually get into the detention basin.

Mr. Gerecht asked if there was any reason to believe that the detention basin would have the potential to distribute water to another property.

Mr. Lemanowicz answered no.

Mr. Gerecht asked if the rate or volume would adversely affect the basin.

Mr. Lemanowicz answered that it would but it was a question of how much of an effect it would have. Every square foot of impervious would have an effect but to what degree. He noted that it has been this township's position that even though it might be a minimal number, enough of them would make a difference.

Mr. Gerecht felt that this was a unique situation since there was a detention basin on the property. He felt that recharge was a more significant issue here than run off.

Mr. Keegan asked Mr. Lemanowicz to explain how the recharge would be impacted by water going to the detention basin versus going to a drywell.

Mr. Lemanowicz answered that there would be run off even on a lawn if it was wet enough. In a drywell condition, it would have to go into the ground. It would have no other place to go.

Mr. Pesce asked if there would be any recharge once it got into the basin.

Mr. Lemanowicz said that there was some recharge. He added that there was recharge in the area where the pool was proposed. However once the pool was installed, there would be no recharge in that area.

Mr. Lemanowicz and Mr. O'Brien noted that a design waiver, not a variance, would be required to waive installation of a drywell.

Chairman Behr asked if there were any questions from the public. Hearing none, he closed the meeting to the public.

Mr. Lemanowicz noted that with very minor exceptions, the applicant had addressed all of the comments in his report.

Mr. Keegan asked about the critical slope issue (#2).

Mr. Lemanowicz said that it was an issue with critical slope ordinances everywhere because that slope would have been created by the developer.

Chairman Behr asked if this amounted to an existing condition.

Mr. Lemanowicz answered that it would be. The proposed construction would not worsen the condition because all of it would be stabilized. That end of the house would be easier to keep stable because it would be flat. It would be easier to maintain a terraced slope than a pure slope.

In reference to his November 29, 2014 report, Mr. O'Brien asked Mr. Melick to address Item B on page 5. He asked about the type and height of the fence which would be used to screen the pool filtration equipment.

Mr. Melick said that the fence was a requirement of the pool company since it was closer than ten feet (10') to the pool. The purpose of the fence was to provide a barrier between the pool and the filter equipment and it would be beneficial to hide that equipment. He suggested a solid white, vinyl fence, four feet (4') high.

Mr. O'Brien said that there had been discussion about the fence that would surround the pool area at the last meeting however there had been no conclusion.

Mr. Melick answered that that fence would be a white PVC fence that would match the railing on the deck. It would not be solid. It would be 54 inches high to meet the requirement for the pool and it was proposed to be a close distance from behind the wall, two (2) to three feet (3'). He added that it should be structurally suitable to provide a safety barrier with respect to the height of the wall. He would want to ensure that the posts were sufficiently secured in the ground so that it could not be knocked over.

Mr. Melick said that in his opinion, no barrier was required at the top of the wall. Mr. Schmidt agreed.

Mr. Lemanowicz asked, assuming approval, if the plans would be revised to show that the fence would not be immediately behind the wall as was currently shown. It would be three feet (3') off.

(Inaudible conversation between Dr. Verlezza and Mr. Melick)

Chairman Behr said that the revised plans should contain notes that specify what was being discussed here.

Mr. Melick agreed.

Mr. O'Brien said that the white picket fence was proposed in the front to be 54 inches high in accordance with his suggestion. The ordinance does not allow anything higher than four feet (4') in the front yard but requires 54 inches to surround a pool. He withdrew his suggestion that the solid fence by the pool equipment pad be extended to the west side since the wall itself was six feet (6') high and would provide a sound barrier for the neighbor.

Mr. O'Brien referred to Item C on page 6. No details had been given about the plantings in the revised plans. He noted that the ordinance required a 3-1/2 inch diameter at six feet (6').

Mr. Melick said that diameter specifications could be added.

Mr. O'Brien said that lighting at the pool was discussed at the last meeting. He wanted to confirm that the only additional lighting would be internal to the pool.

Mr. Melick confirmed that that was correct.

Mr. Gerecht asked if there was any pre-existing lighting on that side of the house.

Dr. Verlezza answered that there was a motion sensor light on the deck that would shine onto the side. He said that he would like to install low voltage lighting to enhance the safety and enjoyment of the pool if it could be done without a variance and without disturbing the neighbors.

Mr. Bernstein noted that this witness (Dr. Verlezza) had been sworn in at the last meeting.

Mr. Gerecht was concerned about the use of the pool at night. He preferred that the applicant request that lighting now rather than have him come back at a later date to consider it.

Mr. Pesce asked if it would be possible to install down lighting on wall facing the pool, away from the neighbor, to light the walkway around the pool.

Dr. Verlezza answered that he would love to have additional lighting and would conform to whatever the Board felt was appropriate.

Mr. O'Brien said that landscaping lighting could be added around the pool. There could be a cut off fixture in the pool equipment area.

Chairman Behr said that he would be amenable to a condition stating that additional lighting could be added to the satisfaction of Mr. O'Brien so long as there were assurances that it would not represent a visual impairment to the neighbor.

Mr. Gerecht said that plan would have to be revised to satisfaction of the Mr. O'Brien.

Mr. O'Brien noted that interior pool lighting was sufficient to take care of safety issues in and immediately around the pool.

Mr. O'Brien stated to Chairman Behr that all of his concerns had been addressed.

Mr. Lemanowicz said that if the fence posts were placed three feet (3') behind the wall, they would be in the geogrid of the wall. He asked Mr. Schmidt if that would change his certification of the wall.

Mr. Schmidt said that it would have to be moved outside the geogrid.

Mr. Lemanowicz said that that would make it four feet (4') and create a four (4) foot wide "landing area" between the fence and the wall.

Mr. Gerecht suggested vegetation such as thorn bushes and decorative rocks to discourage anyone from standing there.

Mr. Schmidt requested an opportunity to review the post placement.

Mr. Keegan asked, in reference to the survey, the southern location of the pool and its proximity to the existing retaining wall, if the Board would be creating a situation where someone would be tempted to try and make that leap.

Mr. Lemanowicz said it would be less than four feet (4').

Chairman Behr asked for a ten (10) minute recess at 9:16 P.M.

RECESS

Chairman Behr reconvened the meeting at 9:25 P.M.

Mr. Schmidt stated that the fence behind the wall would not affect the integrity of the geogrid in the wall. He reiterated that the stability of the wall was intact and that it was very well built.

Mr. Schmidt said, after looking at a photograph of the property which was then marked **Exhibit A-2**, the location in the front suggested by Mr. Lemanowicz would not be appropriate since there were trees in that area.

Mr. Melick agreed.

Mr. Lemanowicz said that in picture #3 taken by Mr. O'Brien, there looked like there was more room.

Mr. Schmidt suggested that a round drywell was not the answer. He reiterated that the soil type in the township was Hydrology Group B which was an absorbing soil. Along with the fact that the applicant was maintaining the basin in the rear and the Environmental Commission's letter which supported the design waiver for not having a drywell, he felt installing a drywell was overkill. This would not set a precedent since there was a detention basin on site.

Chairman Behr reminded the Board members that each case was reviewed on its own unique merits so the issue of precedence did not tend to arise very much.

Mr. Lemanowicz disagreed with Mr. Schmidt's interpretation of the Environmental Commission's report. He felt that the commission favored a non-structural rather than a structural, not that they didn't want anything.

Mr. Gerecht said that that was a common theme with the Commission.

Mr. Lemanowicz said, in response to the Commission's other recommendations, taking the lawn up on the slope and planting shrubs instead would cause him concern. The water going down that slope could wash away the wood mulch and whatever was underneath the shrubs. It was a small area and it would be very much out of place, given all the landscaping that was being proposed in and outside the pool area. The slope between the wall and the neighbor would be mitigated and heavily planted. He did not feel that a 10 X 10 area of native shrubs would prove anything especially if it was stable now. He was more inclined to leave it alone.

Mr. Lemanowicz said that there were no dimensions as to the locations of the trees and he agreed that the space was limited at best. He said that there might be a spot in the southwest direction from the pool equipment. It was away from wall and the roof leaders were in that general area.

Mr. Sims asked about the benefit or function or significance of groundwater recharge.

Mr. Lemanowicz said it is to recharge the aquifers. Many homes get their water from wells. The idea is to keep the aquifers healthy. It's the cumulative effect of the smaller developments such as this that this Board has been trying to control.

Mr. Sims expressed concern over the six foot (6') high retaining wall. When he heard Mr. Lemanowicz suggest that the drywell could be located in the southwest corner which would be above that retaining wall, he wondered if there was a concern about loading up the soil with additional water.

Mr. Lemanowicz said that was why he was trying to push it closer to the property line. He said that there should not be any excavation within the dripline of the trees and reiterated that it was a tight area.

Mr. Keegan asked how the water left the detention basin.

Mr. Schmidt answered that it discharged from a culvert that went underneath Pleasant Plains and discharged through its drain.

Mr. Keegan asked how high the water would need to get.

Mr. Schmidt said that there was a three inch (3") orifice in the bottom of the outlet structure. He noted that Dr. Verlezza had stated that the water had never risen to the primary weir structure at the top of the outlet structure.

Chairman Behr asked the board members, if the application were to be approved, would they require a detention basin to be added to the stormwater management plans.

The board members agreed that the site was unique not only because of the detention basin but also in shape and topography and that it would be a burden to require a drywell. There had been no evidence that any water from Dr. Verlezza's property had

gone into anyone else's property beyond the development. Testimony had been supplied by the applicant and his engineer that the existing detention design was adequate. The board members did note however that installation of a drywell was consistent with the Board's wishes but the overall consensus was that this property did not require a drywell.

Chairman Behr added that he was barely on the side of waiving the requirement also. It was not clear to him that there was a location on the property where the harm done by installing a drywell would not outweigh any benefits.

Chairman Behr asked if any members of the public had statements to make. Hearing none, he closed the meeting to the public.

Mr. O'Brien asked Mr. Schmidt if, in trying to get some distance between the fence, the wall and the pool, would it be possible to slide the pool to the north to give it a little more distance from the top of the wall.

Mr. Schmidt deferred to Mr. Melick.

Mr. Melick answered that north of the pool was a dimension of ten feet (10') which was the sunbathing area. If the pool was moved to the north even by a couple of feet, it would hinder the ability to maneuver around the lounge chairs safely. He felt that ten feet (10') was the minimum distance required for safety of walking around the pool with chairs there.

Mr. O'Brien asked if Mr. Melick could suggest something to put on the top of the wall to make it a "no go" area given the four feet (4') of width between the wall and the fence.

Mr. Melick did not have any suggestions. He felt that it would be pushing the envelope if they tried to make it so safety proof that no one would be tempted to climb the wall and jump off into the pool.

Mr. O'Brien added that someone could fall from there also.

Mr. Gerecht asked what would be between the wall and the fence.

Mr. Melick said it would have to be a landscape material since it would be difficult to mow grass there. He suggested mulch with low vegetation.

Mr. Gerecht added that the vegetation could be something that spread over the wall and acted like barbed wire. Obviously it would have to be something that did not have roots that would get into the geogrid.

Mr. Melick suggested a low growing holly or something with pointed edges that would deter someone especially with bare feet.

Mr. Dreskin indicated that that would conclude his case.

Chairman Behr asked Mr. O'Brien to list the conditions, should the Board approve the application.

Mr. O'Brien answered: (1) revision of the landscaping around the pool as well as providing a landscape schedule showing the sizes of the proposed landscaping; (2) provide a way to read the gas meter; (3) grant a variance for a 54" front yard fence; (4) additional lighting could be provided for the pool area as long as it did not cause any glare or light pollution (to be reviewed by staff); and (5) the front fence would be four feet (4') away from the retaining wall and landscaping would be provided between that wall and the fence.

Mr. Lemanowicz added that there had to be outlet control protection at the end of the roof leader being relocated and going down the slope to prevent erosion.

The Board began deliberations with Mr. Gerecht. He said that the testimony showed that the property was very unique in shape. There were other houses in the area that have pools in similar areas. Although the ideal place for a swimming pool would be in the back yard, in this case the rear yard was encumbered by a detention basin which was required by the township to take care of the water in the development. He felt that throughout the course of the testimony the applicant had been cooperative and had incorporated the Board's suggestions into his plans. He said that the negatives outweighed the positives and that the testimony from both the applicant's experts and the Board's experts appeared to justify the required variances. He felt that it was a hardship and that the drywell was not needed. He was in favor of the application.

Mr. O'Mullan agreed with Mr. Gerecht for all the reasons he stated along with those stated during testimony. He felt that the plans were well thought out, that it was well buffered and that the application made every attempt to mitigate any negative factors that might exist. He noted that there had been no objections made from neighbors. Based on what he had heard, he would be in favor.

Mr. Pudlak felt that the property qualified for hardship. He added that the applicant and his experts had been more than accommodating in relieving any of the Board's concerns. As long as the conditions as outlined by Mr. O'Brien were met, he was supportive of the application.

Mr. Sims said that after reading all of the documentation and hearing the testimony from the first meeting (on CD), he felt that the owner was stuck with some difficult conditions but had a right to enjoy his property as other neighbors did. He felt that the applicant had come up with the best proposal given the conditions. He stated that he was in favor of approving the application.

Mr. Keegan said that while he did think that the lot created a difficult situation, he felt it was worth noting that the applicant did receive approval for a fairly substantial deck which enabled him to further enjoy the property. He felt the C-1 condition was met however he was not sold that the Negative Criteria had been met. He did not like the location of the pool and he felt it would create additional noise within the neighborhood because of its close proximity to the neighbor as well as an open fence in the front. He also had remaining safety concerns over the proximity of the south wall to the pool itself. For those reasons, he was not in favor of approving the application.

Mr. Pesce indicated, for the record, that he had listened to the CD of the October 21, 2014 meeting.

Mr. Pesce stated that he was supportive of the application however he saw it as a close call. After visiting the site, he felt that the pool was very close to house next door. Although the applicant and his experts had been very accommodating and the Board had done the best that could be done to encourage the applicant to have an effective buffering plan, it was very close. He noted that the neighbor was not present to present any opposition.

Mr. Pesce said that although the topographic features and shape of the lot lent themselves to the C-1 Criteria, none of it was a secret. It was all apparent when the lot was purchased and perhaps not every lot was appropriate for a swimming pool however he did not see any statutory support for that notion in the C-1 statutory criteria. Given that, he felt that the applicant and his professionals had met the negative and positive criteria so they would have his support.

Chairman Behr agreed that it was a very close call. He would support the application but expressed concern over the wall and the possibility that someone might jump from it. He noted that it was a constrained lot. He reiterated Mr. Pesce's point that not every lot was acceptable for a swimming pool and the lot's characteristics existed when the applicant purchased it. That said, he felt there was a degree of reasonableness that was one of the criteria for a C-1 variance. He was very concerned that the landscaping on top of the wall be thought out very very carefully because anybody's children could

jump off of that wall. Given that, for all the reasons outlined by the other Board members, Chairman Behr stated that he would approve the application.

Mr. Bernstein phrased the resolution as follows: Be it resolved that the Board approve the variances, waivers and conditions associated with this application by means of a motion with a memorialization of the resolution to be adopted at a subsequent date.

Mr. Pesce motioned approval and Mr. Gerecht seconded. A Roll Call Vote was taken. Those in Favor: Mr. Gerecht, Mr. Pesce, Mr. O'Mullan, Mr. Pudlak, Mr. Sims, Chairman Behr. Those Opposed: Mr. Keegan. Abstained: None.

Ms. Kiefer advised that the application had been approved by a vote of 6-1.

Chairman Behr read the standard instructions to the applicant. He then asked for a short recess at 10:05 P.M.

RECESS

The meeting was reconvened at 10:11 P.M.

Present: Dawn V. Wolfe, Planning & Zoning Administrator

Chairman Behr noted that each of the Board members, consultants, and staff had a copy of the latest version (12-02-14) of the draft Zoning Board Rules. He asked for comments which would be incorporated into the document.

The Board members, Mrs. Wolfe and consultants reviewed the changes that had been made and then gave their comments.

After the Board had concluded its review of the draft, Chairman Behr asked for a motion to adjourn. Mr. Keegan motioned and Mr. Gerecht seconded. A Voice Vote was taken and by unanimous vote, the meeting was adjourned at 10:58 P.M.

CYNTHIA KIEFER
Planning and Zoning Secretary

Date