

Minutes of: Dec. 9, 2020
Date Approved: Jan. 13, 2021
Date Filed/Village Clerk:

December 9, 2020
TUCKAHOE ZONING BOARD AND BOARD OF APPEALS
Online due to Covid-19 – 7:30pm

Present: Tom Ringwald Chairperson
 John Palladino Member
 Nathan Jackman Member
 Christopher Garitee Member
 Anthony Fiore Jr. Member ad hoc

Absent: David Scalzo Member

Also in Attendance:
 Bill Williams Building Inspector
 Gary Gjertsen Village Attorney
 Carolina Fonseca Village Consultant

Chairman Ringwald announced the agenda as follows:

- Item #1 Approval of minutes from the November 4, 2020
 Regular Meeting**
- Item #2 15 Hollywood East Area Variance**
- Item #3 69 Main St. Adjourned**
- Item #4 70 – 72 Marbledale Rd. Adjourned**
- Item #5 174 Marbledale Rd. Adjourned**
- Item #6 22 Underhill St. Adjourned**

Chairman Ringwald welcomed Michael Martino as a new ad hoc member. Member Martino brings his years of experience in construction management to the Board.

**Item #1 Approval of minutes from the October 14, 2020
Regular Meeting**

Member Fiore motioned to approve the November 4, 2020 Regular Meeting minutes, seconded by Member Palladino and upon roll call was carried with a vote of 5 – 0.

Item #2 15 Hollywood East Area Variance

Jorge and Lori Paiva, owners of 15 Hollywood East, indicated that they installed an oval above ground pool in the rear yard. They originally built a platform surrounding half of the oval pool. There was a four foot drop due to the deck ending. Mr. Paiva fell down at the four-foot drop and since continued the deck platform around the entire pool. He stated it was for a two-fold reason. One was due to the safety issue and the second was to place a solar motorized pool cover reel on that end of the oval pool. The pool, fence and original pool deck has all been inspected and given permits. He stated that the extra platform that sits between the rear fence and the pool is not too wide and therefore the pool cover reel takes up almost the entire platform. There will be no family members or guests lingering at that end of the pool. The privacy fence that sits at the end of the property is 42 in. high.

Mr. Paiva stated that he would be happy to install a taller fence at that location.

Mr. Paiva submitted photos, which displayed the property at the time of his purchase and now. He stated that he and his wife invested a lot of money cleaning up the property and making it beautiful.

Chairman Ringwald asked if the platform where the pool cover sits, could possibly be lowered.

Mrs. Paiva noted that would be a potential falling hazard.

Member Jackman stated that the neighbors have submitted photos of pool guests hanging out at that section of the deck and looking over the fence at the neighbor's property.

Mr. Paiva noted that there are no deck chairs or outdoor furniture at that section of the pool deck. It is a narrow platform to house the solar pool cover reel.

Member Jackman asked the applicant to provide signed and sealed architectural drawings. He added that the Zoning Code for the Village allows a pool and deck surrounding the pool to be placed up to 5 ft. from the property line.

Mrs. Paiva noted that the elevation is high. Even before the pool was installed, the neighbors could see one another in their yards. She offered to install a tall fence to provide ample privacy if the Zoning Board would grant the permission.

Chairman Ringwald noted that there seems to be two options: lower the platform that has the pool cover reel or raise the fence to give privacy.

Chairman Ringwald motioned to open the public hearing, seconded by Member Palladino and carried unanimously.

Public Comments

Valerie Haxner 17 Hollywood Ave noted that it was not her intention for the applicant to remove the pool, patio or deck. The pool was installed in 2019. The applicants originally requested a full deck around the perimeter of the pool. The application was denied by the Building Dept. They have since built a deck around the perimeter of the pool. She asked if the patio had proper drainage. She explained that there is a 5ft. wall constructed of cinder blocks on the property line to hold the soil for the patio. The applicants extended the existing retaining wall with cinder blocks. The rainwater now runs down the extended wall onto her property. The patio must not have correct drainage and the Pavia's patio must be pitched toward her property for this to happen.

Mrs. Haxner noted that the extension of the pool deck to house the solar pool cover reel has been used by guests. She stated that 15 guests were on the deck peering over to her yard.

She added that there is a 6ft. panel on the side of her garage, which she requested, be removed and an 8 ft. panel replace it. She indicated that she does not have access to that side of her garage. There should be stairs to the ground level. The patio is 5 ft. above the existing ground so as to be flush with the pool.

In summary, Mrs. Hexner noted that the applicant could possibly lower the deck, replace the picket fence on the retaining wall, provide proper drainage and plant shrubs to provide more privacy.

Chairman Ringwald noted that this application is for an area variance for the pool deck. There would be the need for a new application for a privacy fence to exceed the 6 ft. Zoning Code.

Marsha Viafore 116 Bella Vista Street, resident for 36 years, suggested that the applicant plant a row of giant evergreen trees to allow for more privacy. When planning this pool, the applicants should have been more considerate to their neighbors. The applicants never spoke to the Viafore family during the process of installing the pool.

Mrs. Viafore noted that the fake grass on the fence does not look right. The Pavia's guests stand on the pool deck and can see into her yard. Mrs. Viafore stated that that is very uncomfortable. She asked if the Board could grant a variance for the applicants to install a very tall fence. She requested that the application be combined – the pool deck and the privacy fence should be one application.

Susan Crane 11 Hollywood Ave. noted that she and her family have lived here for 33 years. The Paivas have done a magnificent job making their home beautiful. The topography in this area is such that the elevation allows each of us to see into one another's yards. There is a privacy need. A higher fence that exceeds the Zoning Code may be a solution if permitted.

Alex Viafore noted that all these neighbors were close for over 30 years. A pool that sits about 10ft. above the ground and up to 16ft. with someone standing on the pool deck is a bit intrusive.

Mrs. Hexner added that the Paivas could have installed their pool in the rear of their property. The property slopes from 12 ft. to 5 ft. She noted that five families in the area have pools, all at ground level with shrubs and fences to provide privacy. This pool is too high with the pool deck at the fence.

Chairman Ringwald stated that the Zoning Board of Appeals is charged with granting relief of the Zoning Code if reasonable; if unreasonable, the variance is not granted.

Member Jackman noted that the drainage issues and the cinderblock wall must be examined by the Building Inspector. That is a separate issue that must go through the Building Dept. The application before this Board is the request for the pool deck variance. The height of the back fence may possibly be combined with the pool deck application.

Bill Williams noted that there is nothing that can be done regarding what is under the pavers on the Paiva's patio. If the pavers were installed without the correct drainage, the neighbors should have called his office at the time. He would have made a quick site visit and instructed the Paivas to install the pavers properly. Once a permit is pulled for a patio, the Building Dept. does not inspect it until the project is completed. The patio was signed off as it was built within code requirements.

He added that the Zoning Board members should conduct a site visit before the next meeting. He noted that the fence around a pool is referred to as a guard. A pool guard must be 42 in high. If the Board allows the application to include a new higher fence, then the applicant must re-notify the public.

Carolina Fonseca, Planning Board Consultant noted the Village Zoning Code requirements are that the deck area not exceed 25% of the circumference of the pool.

Gary Gjertsen added that the applicants would need to resubmit, re-notify and start from scratch.

Member Jackman noted that the applicants and the neighbors must be flexible. This may take a few months. The applicant will submit signed and sealed drawings, the variances are to access the fence on the deck, on the property line and modify accordingly.

Chairman Ringwald noted that the fence could be added as a condition to the resolution or it could be a separate application. He again asked for the signed and sealed drawings. He requested a sketch of what the applicant can do 'as of right'.

Chairman Ringwald motioned to keep the public hearing open, seconded by Member Fiore and carried unanimously by the Board.

Item #3	69 Main St.	Adjourned
Item #4	70 – 72 Marbledale Rd.	Adjourned
Item #5	174 Marbledale Rd.	Adjourned
Item #6	22 Underhill St.	Adjourned

There being no further comments from the public or business before the Board, upon motion duly made, seconded and unanimously carried, the meeting was adjourned.