

TOWNSHIP OF EVESHAM
Zoning Board
Minutes
7:00 pm

September 17, 2018

Municipal Building

Call to Order

Chairman Parikh made the call to order at 7:17 pm

Flag Salute

Statement of Conformance with Open Public Meetings Act

Chairman Parikh made the statement of conformance with the Open Public Meeting Act and the Municipal Land Use Legislation

Roll Call

Present: Alperin, Rodgers, Parikh, Lutner, Meyers, Osno, Shah, Davé, Wilson

Also Present: Wieliczko, Loughney, Kinney, Boulton

Absent: Wessner

Meeting Minutes:

August 20, 2018

Motion: Meyers

Second: Shah

Ayes: Parikh, Lutner, Meyers, Osno, Shah, Davé

Unfinished/New Business

1. Charles Schanze ZB 18-24

4 Parkdale Place, Block 13.61, Lot 19 (MD Zone District)

Applicant constructed an in-ground pool with rear yard setback 7'2", side yard setback 7'7' & 11'70' where Z 62-62 requires 15'

Witnesses:

Charles Schanze, Applicant

Board Attorney Overview:

- Applicant is seeking bulk variances for an existing in-ground pool and as-built brick hardscaping
- 2 years ago Applicant applied for installation of in-ground pool all within setbacks, no variances required
- After pool went in, Applicant contracted with separate contractor for hardscaping around the pool
- Applied hardscaping and contractors documented that they were to get all of the permits
- After contractor was paid and finished, realized inspection failed because some of the pavers were in the setback
- Rear (southern side) requires a setback of 15ft. and seeking relief to keep the current setback of 7.2ft.
- Existing pavers are 7.2ft. from the rear property line with a solid vinyl fence which borders open space area

- No neighbors behind Applicant
- Eastern property line, pavers encroached 11.7ft from property line and 7.7ft from western property line where 15ft. is required on all sides
- Applicant wasn't complicit and did not approve
- Applicant installed a pool 2 years ago and was told by contractor that permit documents were in place and proper setbacks were met
- Eastern side pavers encroach 11.7ft. and 7.7ft. from the western property line
- Condition of approval that if there is ever a problem on the eastern or western property line, Applicant will remediate at owner's expense
- Township Engineer suggested potential railing, however, if no railing is installed, as the area is fully mulched and landscaped, the Applicant should agree as a condition of approval, to hold the township harmless and indemnify the township for any action brought against it for those 2 areas of the property
- Applicant confirms that he will not hold the township liable

Applicant Overview:

- Did not condone or approve the setback area
- Paid for and approved the work not knowing there was a problem until it failed inspection
- Communicated with hardscaping contractors and pending the outcome of board meeting will determine the next step
- There haven't been any problems with erosion or drainage on the property
- Neighbors were aware of all the work done and there have been no complaints
- It would be a great hardship to remove the pavers if required to do so
- Extremely costly to remove or correct the hardscaping; would make it impossible given the limited funds and medical issues with wife
- Applicant discussed slope/incline issues with Township Engineer
- Seeking relief for an honest mistake in taking contractors word
- Failed final inspection because of gap in fence and gates didn't auto-close
- Had gate issues fixed only to find out about the zoning issues
- Too much to deal with at the time, did as-built survey in December as requested
- Trying to make it right by being at Zoning Board meeting tonight

Bill Loughney, Township Engineer Testimony:

- Discussed review letter dated September 14, 2018
- Rear pavers to the fence are 7.2ft. and there is mulch down to the fence
- This area will be maintained and not mowed
- Slope is acceptable if not eroding and applicant continues to replace the mulch as needed
- No problem with the violations in the slope
- Per Mr. Wieliczko, Applicant agrees as a condition of approval that to the extent that there are any difficulties or problems with run-off or erosion on any side of the property, Applicant will remediate and correct any issues at owner's expense
- As pavers are already in and it would be a great hardship to remove the pavers, currently the property is under its maximum impervious coverage so no issue
- Erosion and safety wise, not a large issue to leave pavers where they are
- Hot tub was removed already so no longer an issue as seen on a previous drawing
- Western side is 7.7ft. to the fence, right side of the pool has about six 15ft. arborvitae evergreens and a mulch bed

- Applicant confirms there is no erosion on any side

Board Comment:

- Mr. Parikh inquired about the pool being installed 2 ½ years ago and wanted to know why it took this long to correct the issue
- Applicant replied that this was overwhelming and he couldn't deal with it and needed to figure out how to fix the 2016 open permit folder
- Applicant received first denial 10/26/16 and a second denial on 2/23/17
- Applicant spoke to Township Engineer and confirmed that if the slopes are covered in mulch it will help, so highly recommend not moving mulch
- Per the Township Engineer, the railing is recommended but not required
- Mr. Rodgers asked if he would hold the town harmless with regard to the railing and also the grade at the rear and side property and both sides of the property lines
- Applicant testified that Evesham Township will not be held liable and he will remediate and fix at own expense
- A hot tub appears on the survey however, there was a hot tub but it was already removed
- Mr. Osno asked if the pavers are sinking
- Applicant replied no
- Mr. Wilson inquired about the backwash of the pool and where it ran off
- Mr. Loughney responded the pool has a cartridge filter which eliminates the hose and backwash running off to the street. The cartridge collects the debris and is then replaced with a new one when needed
- The pool equipment location per the as-built survey submitted identifies the location "screen equip" is within the 15ft. setback

Public Comment:

None

Motion to Approve ZB 18-24

Motion: Rodgers

Second: Davé

Ayes: Alperin, Davé, Lutner, Meyers, Rodgers, Osno, Parikh

2. Luke Gordon ZB 18-26

405 Breeders Ct., Block 11.44, Lot 18, (MD Zone District)

Applicant has an existing shed 3'3" rear yard setback, 3'6" side yard setback where § 160-64E(2) requires 5', and a deck cover rear yard setback 11'7" where § 160-64E(2) states setback shall be equal to ½ of the required 25'

Witnesses:

Luke Gordon, Applicant

Applicant Testimony:

- Seeking variance for existing pool, existing shed 3.3ft., and deck cover over rear deck with setback of 11.7ft. where 12.5ft. is required
- Owned property for 18 years, shed and deck cover has been in place for 17 years
- Submitted applications for deck cover and shed and paid for permits through "House Doctors Home Repair"

- Selling the house and made aware by the township that there were no permits pulled which we were unaware of as we paid for them
- Was not aware that this was an issue until going to sell the house and was informed there were setback problems
- House is a pie shape and the back of the property is really short
- It's Colts Run Development, setback line was almost 2ft off the back door
- There are no drainage problems and no problems with erosion
- The neighbors have not complained nor are there any safety issues
- Relief is being requested because we are trying to sell the house
- Were supposed to go to Settlement in July and we are just trying to get this resolved so don't have to continue to pay for 2 properties, it is becoming a real financial burden
- Never had complaints from any neighbors in all 17 years of shed and deck cover being there

Board Comment:

- None

Public Comment:

- None

Board Attorney Overview:

- Applicant is seeking a bulk variance for existing conditions - the shed that is 3.3ft from the rear and 3.6ft from the side where 5ft is required
- Deck and deck cover which has a current setback is 11.7ft. where 12.5ft is required, which has been in place for about 17 years

Motion to Approve ZB 18-26

Motion: Alperin

Second: Lutner

Ayes: Alperin, Davé, Lutner, Meyers, Rodgers, Osno, Parikh

3. Marlton Route 73, LLC ZB 18-27

Variations for Signage – (Raymour & Flanigan)

515 Route 73 South, Block 34, Lot 1 (C-1 Zone District)

Applicant proposes 2 façade signs (1) 198.85 sq. ft. where § 160-75O(7)(b) permits maximum 120 sq. ft., (1) 133 sq. ft. where § 160-75O(7)(c) permits maximum 80 sq. ft.

Duncan M. Prime, Attorney for Applicant

Witnesses sworn in by Board Attorney:

Adam Wasileski, Director Real Estate Raymour & Flanigan

Tiffany A. Morrissey, Professional Planner

Exhibits:

A1: Exterior Signage Front Elevation (colorized drawing of front elevation signage facing the middle of the shopping), Dated August 14, 2018

A2: Exterior Signage Side Elevation (colorized drawing of side elevation exterior signage facing Route 73), Dated August 14, 2018

Applicant Attorney Overview:

- Location was previously known as Shoppes at Borders and Meadows Edge
- There is history to this property that needs to be explained
- Came before the Planning Board twice since 2016 with the former owner, Goodman Properties, who purchased the shopping center which was 50% vacant at the time, they had intent to renovate and bring a new tenant
- Received Site Plan Approval in April 2016 for upgrades, lighting and landscaping, 2nd façade sign and larger free standing sign
- Deal fell through and came back to the Planning Board in December 2016
- Slight amendment, removed the new tenant and put generic retail use back in
- Marlton Route 73 LLC Real Estate purchased by Raymour & Flanigan with intent to adhere to all provisions in the prior approval
- It is Raymour & Flanigan's desire to adhere to all conditions of the prior approval
- Raymour & Flanigan will locate an Outlet Store as an anchor tenant on the north side of the center (previously a gym)
- Proposing 2 façade signs and requesting 2 variances to increase the size of the signs above what is permitted by Code

Adam Wasileski, Testimony:

- Gave background on Raymour & Flanigan's history of purchasing real estate in 7 states within the Northeast, still privately owned
- Billion dollar portfolio on the real estate side
- Purchased 515 Route 73 in September 2017 and negotiated buyout agreement with other stores in the center (Joanne Fabrics lease expired and Club Metro opted out of staying)
- Relocated and successfully negotiated a long term lease with Hair Cuttery
- Raymour & Flanigan is proposing a 30, 835 sq. ft. outlet
- R&F is a well-known brand in the Northeast and confident they will be successful in this center
- Referring to Exhibit A1, it is a typical channel letter drawing per Code in color and size
- R&F usually has box letter signage
- Purple background behind white channel letter signs was released this week as new branding for R&F
- Slightly different shades
- This will be a Raymour & Flanigan Outlet Store

Board Comment:

- Mr. Alperin inquired about the Outlet concept asking if this would be discounted furniture
- Adam advised that this was not the case, it would be full priced merchandise with different manufacturers
- Brand new products at a different price point; less expensive not discounted
- Same sign as in other outlets with exception of box sign backing
- Clearance centers have the discounted/damaged merchandise

Tiffany Morrissey, Testimony:

- Gave background; accepted as expert witness
- Discussed positive/negative criteria of the application

- Variances are required because the proposed signs (principal and secondary) exceed the size permitted
- For uses over 20,000 sq. ft. ordinance permits sign a maximum of 15% of façade area or 120 sq. ft., whichever is less; secondary is maximum of 15% of façade area or 80 sq. ft., whichever is less
- Proposing a sign of 198.85 sq. ft. which equates to 3.1% of the façade area
- Requires variance because it is more than 120 sq. ft. but still substantially less than the 15%
- Variance on the second sign requested also because ordinance permits the second sign at a maximum of 15% of the façade area or 80 sq. ft. or whichever is less
- Proposed second sign channel letters are 133 sq. ft. which equates to 5.4% of the façade area; more than 80% but substantially less than the 15%
- Exhibits show depiction of signs and displays that signs are proportionate to size of building
- From the front, internal shopping center sign, the channel letter sign area equates to 3.1% of the façade
- Entire area down to where Joanne Fabrics used to be will be occupied by this Outlet Center; this is the only sign that will be on this side of the shopping center
- The 2nd sign, or the corner sign proposed on Route 73, is to help provide visibility coming south on Route 73 as the shopping center has little visibility internally from the highway
- Heading north on Route 73, can see façade internally but cannot get to center unless you do a u-turn; difficulty in terms of visibility and access
- Free standing sign will be the secondary point of visibility
- To qualify for flexible C Variance benefit must substantially outweigh the detriment in terms of overall development of shopping center
- Formal approvals and long history of trying to find occupants for shopping center
- The end cap location, where R&F is proposed, was constantly changing, never a name brand
- New use by the Outlet Center (R&F) will bring life and vitality back to the shopping center
- Improvements being made will create a desired visual environment
- New signs will provide a benefit in identification and in line with the township's Master Plan
- Upgrade to the façade, increasing the occupancy of the shopping center and reutilizing to bring more demand to shopping center
- Not an easy access location so additional signage provides a benefit in terms of identification to the public
- 15% of the façade, proposal is substantially below, only 5.4% and provides positive public good by bringing it back to full occupancy
- The area of painted portion (boxing of the channel letters) – façade facing shopping center - sign is 267 sq. ft.; 4.1% of the façade
- The area of the façade along Route 73 is 188 sq. ft.; 7.6% of the façade
- The total property is 30,835 sq. ft.; the façade sign area from the front is 6432 sq. ft. and the façade sign area on the Route 73 side is 2466 sq. ft.
- Applicant will work with Township Planner to ensure that the sign and color accents meet code

Board Comment:

- Mr. Alperin asked if the size of the signs will have any impact on future tenants
- Planner responded that it would not due to R&F occupying the entire side of the center where the signs are proposed and it is proportionate with the building
- Mr. Rodgers asked if there was a free standing sign on the shopping center; assumed size of free standing sign meets the needs
- Planner replied that a larger free standing sign was approved prior; will not be seeking additional relief for the free standing sign

William Loughney, Engineer:

- Size of the area of the channel letters in relation to store being above 20,000 sq. ft.
- Requested that the Applicant provide an updated Site Plan to Township Planner, Secretary and Board Attorney indicating the details of occupancy square footage and updated façade signs

Public Comment:

- None

Board Comment:

- Mr. Wilson inquired about the current ordinance of 120 sq. ft. or a % of the façade. If the % of the signs are so far below current façade size, where is the variance required
- Confirmed that it is whichever is the lessor that requires a variance

Board Attorney Summary:

- Applicant is seeking variances on 2 proposed façade signs. Front signage (to the internal of the site) is at 198.85 sq. ft. where a maximum area of 120 sq. ft. is permitted and the sign facing Route 73, which is proposed at 130 sq. ft. where a maximum of 80 sq. ft. is permitted
- Applicant addressed the conditions and questions noted in the Professionals review letter
- Applicant agreed to conditions of approval and will provide an updated Site Plan showing square footage and updated façade signage with colors
- Applicant will be conforming with the prior approvals and conditions

Motion to Approve ZB 18-27

Motion: Rodgers

Second: Davé

Ayes: Alperin, Davé, Lutner, Meyers, Rodgers, Osno, Parikh

The Zoning Board meeting moved to Executive Litigation at 8:26 pm

Meeting returned to Public Session at 8:58 pm

Board Attorney Summary:

Returned to Public Session. No action was taken and no votes were taken in Executive Session. There was a discussion with regard to litigated matter Soboleski v. Evesham Township Zoning Board of Adjustment and a proposed Conditional Settlement Agreement

ZB 18-28

Motion: Alperin

Second: Davé

Ayes: Alperin, Davé, Lutner, Meyers, Rodgers, Osno, Parikh

Memorialize ZB18-28

Motion: Alperin

Second: Lutner

Ayes: Alperin, Davé, Lutner, Meyers, Rodgers, Osno, Parikh

Resolutions

ZB 18-23

Motion: Meyers

Second: Osno

Ayes: Davé, Lutner, Meyers, Osno, Shah, Parikh

ZB 18-11 Vote #1

Motion: Rodgers

Second: Meyers

Ayes: Alperin, Rodgers, Meyers, Osno, Parikh

ZB 18-11 Vote #2

Motion: Rodgers

Second: Parikh

Ayes: Alperin, Rodgers, Meyers, Osno, Parikh

Communications/Organization

Next Meeting: October 15, 2018

Meeting adjourned at 9:04 pm