

- (X) Approved
- (X) General Conditions
- () Additional Conditions
- () Denied

RESOLUTION # Z 96-46

() Appeal from	Application # <u>Z 96-46</u>
Administrative Officer	Applicant <u>Michael and Suzanne</u>
Decision	<u>Dunn</u>
() Interpretation	Owner <u>same</u>
(X) "C" Variance	
() "D" Variance	Block <u>10-2</u> Lot <u>16</u> (P.I.Q.)
() Subdivision	Action <u>December 16, 1996</u>
() Site Plan	Memorialized <u>February 17, 1997</u>
()	Plan Name _____

WHEREAS, the applicant has applied to the Evesham Township Zoning Board of Adjustment (ETZBA) for the following primary approval(s): "c" variance pursuant to N.J.S.A. 40:55D-70c to permit relief from Evesham Code Section 160-22B.2 to allow 6 foot high fence in front yard; and

WHEREAS, the applicant has applied for the following ancillary approval(s): none;
 _____;
 _____; and

WHEREAS, the application was considered by the ETZBA on December 16, 1996; and

WHEREAS, a public hearing () was not required; or

WHEREAS, a public hearing (X) was required and the ETZBA has considered that public comments
 (X) were not made by the public
 () were made in favor of all or some aspect of the application
 () were made against all or some aspect of the application; and

WHEREAS, it appears that all jurisdictional and procedural requirements of applicable Township Ordinances have been met; and

WHEREAS, the ETZBA has considered the application and the evidence and arguments submitted by the applicant in support thereof; and

WHEREAS, the ETZBA has considered the recommendations and comments of its professional staff and the following written reports:

() Engineer report(s) dated _____

() Planner report(s) dated _____

() Traffic Consultant report(s) dated _____

() Evesham Township Environmental Protection Committee report(s) dated _____

() Other _____

Copies of which are attached hereto and made a part hereof respectively as Exhibit(s) _____; and

WHEREAS, it appears that all requirements necessary to approve the application have been met; and

WHEREAS, the ETZBA has made the following Findings of Fact and Conclusions (see attached); and

NOW, THEREFORE, BE IT RESOLVED that the above primary approval(s) applied for be and is/are hereby granted; and

BE IT FURTHER RESOLVED that the above ancillary approval(s) be and is/are hereby granted; and

BE IT FURTHER RESOLVED that the approval(s) hereby granted are made subject to the following General Conditions applicable to this type of application (see attached); and

BE IT FURTHER RESOLVED that the approval(s) hereby granted () are made subject to (X) are not made subject to the following Additional Conditions (see attached).

The foregoing action was taken by the ETZBA on December 16, 1996, upon the motion of Mr. Marconi, seconded by Ms. Brandau, with the vote on the motion being as follows:

AYE: Blume, Disinger, Ganun, Marconi, Brandau, Stetson

NAY: Cutler

ABSTAIN:

ABSENT:

DID NOT PARTICIPATE: Kwasnik

The foregoing action was memorialized by the ETZBA on February 17, 1997 upon the motion of Mr. Blume, seconded by Mr. Brandau, with the vote on the motion being as follows:

AYE: Blume, Disinger, Brandau

NAY:

ABSTAIN:

ABSENT:

DID NOT PARTICIPATE:

The undersigned Secretary of the ETZBA hereby certifies that the above is a true copy of Resolution # 296-46 adopted by the ETZBA on 2-17-97.


D. Charlene Grabowski,
Secretary

FINDINGS OF FACT AND CONCLUSIONS

1. The applicant initially applied for a "c" variance pursuant to N.J.S.A. 40:55D-70c to permit relief from the height of a fence permitted in the front yard under the Evesham Township Ordinances.

2. The property is located at 16 East Cedar Avenue, more particularly described as Block 10-2, Lot 16 on the Evesham Township Tax Map (hereinafter the "P.I.Q.").

3. The applicant indicated that he proposed to construct a 6 foot high wood fence in the front yard area of the P.I.Q.

4. The applicant indicated that an extremely small back yard existed at the P.I.Q. and that he would like to extend the play area for his children.

5. The applicant indicated that he proposed to extend the existing fence upon the P.I.Q. closer to Evergreen Lane.

6. The applicant indicated that the residence on the property behind the P.I.Q. faced Evergreen Lane.

7. The applicant indicated that the proposed location of the 6 foot fence upon the P.I.Q. would be approximately 15 feet from the property line along Evergreen Lane.

8. At the hearing on December 16, 1996, the ETZBA Planning Consultant indicated that the area of the proposed fenced section was consistent with the size of the P.I.Q.

9. The ETZBA opened the hearing on this application to the public, however, no member of the public desired to testify in regard to this application.

10. Based upon all of the foregoing testimony, the application and other documents and the ETZBA's familiarity with the P.I.Q., the ETZBA finds that in regard to the P.I.Q., the purposes of the Municipal Land Use Law, N.J.S.A. 40:55D-2 would be advanced by the requested variance and that the benefits of the variance would substantially outweigh any detriment. Specifically, the ETZBA finds that the requested variance would advance the purposes of N.J.S.A. 40:55D-2g (provision of sufficient space in appropriate locations for a variety of residential uses . . . both public and private).

11. The ETZBA further finds that the variance can be granted without substantial detriment to the public good and that the variance will not substantially impair the intent and purpose of the Evesham Township Zone Plan and Zoning Ordinance. Specifically, the ETZBA finds that a sufficient distance will exist between the rear of the proposed fence and the property line of the P.I.Q. and that the size of the proposed fenced area is consistent with the size of the P.I.Q.

12. Based upon all of the foregoing, the ETZBA concludes that a "c" variance should be and is hereby granted to the

P.I.Q. to provide relief from the height of fencing permitted in the front yard area under the Evesham Township Ordinances.

1

GENERAL CONDITIONS OF APPROVAL

1. Any variance granted permitting the erection or alteration of any structure(s) or a specified use shall expire unless such construction, alteration or use shall have been actually commenced on or in each and every structure permitted by said variance within one (1) year from the date of the ETZBA's action and is diligently pursued to completion; except, however, the running of this period shall be tolled from the date of filing an appeal from the ETZBA's decision to Township Council, or to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding (Code Section 15-6). This Condition shall not apply if preliminary approval has been granted, extended and is still in effect pursuant to N.J.S.A. 40:55D-49 or if final approval has been granted, extended and is still in effect pursuant to N.J.S.A. 40:55D-52.

2. A brief notice of this decision shall be published in the official newspaper of the Township, at the applicant's expense. The aforementioned notice shall be sent to the newspaper for publication within ten (10) days of the date this decision is memorialized (Code Section 15-22). A proof of publication shall be filed with the Administrative Officer of the ETZBA within thirty (30) days of the date the decision is memorialized.

3. The applicant shall promptly pay any professional staff fees billed, in excess of the required application escrows, or pursuant to Ord. 1-1-85 file a written protest with the Township Manager within seven (7) days of receipt of a final voucher from the Township.

4. These General Conditions of Approval shall be binding upon the applicant, the owner and any successors and assigns of either.

5. The Additional Conditions of Approval, if any, shall be binding upon the applicant, the owner and any successors and/or assigns of either.

6. The approval(s) granted is/are conditioned upon the applicant obtaining the following governmental approval(s):

- () Burlington County Planning Board
- () Pinelands Commission
- () New Jersey Department of Environmental Protection - wetlands delineation and wetlands buffer

7. Prior to the commencement of any construction, the applicant shall obtain the following governmental approvals and/or permits:

- (X) Evesham Township Construction Code Official
- () Burlington County Soil Conservation District
- () New Jersey Department of Transportation

highway access permit

- () Burlington County Engineer highway access permit
- () Burlington County Engineer utility connection permit
- () Evesham Municipal Utilities Authority W-4 and S-5 permits.
- () New Jersey Department of Environmental Protection

8. Any improvement(s) to be constructed as a result of the ETZBA approving this application shall be constructed and operated in full compliance with the Code of Evesham Township, the Revised Statutes of the State of New Jersey and any other applicable county and/or federal law.

9. Unless specifically waived in whole or in part and noted in the Additional Conditions of this Approval, if the above application involves the granting of a final major subdivision approval or a final site plan approval or the approval for the issuance of a zoning permit, the applicant, in order to assure the installation and maintenance of the on-tract improvements required by the preliminary approval or as a condition to the issuance of a zoning permit, shall furnish written performance guarantees and written maintenance guarantees in the form(s) which comply with the provisions of

N.J.S.A. 40:55D-53 and the requirement of Evesham Township Code Section 94-7. The amount of each performance guarantee shall equal 120% of the amount estimated by the Township Engineer as the cost of installing the required improvements. The maintenance guarantee shall equal 15% of the cost of the improvements and shall cover a period of two years after final acceptance of the improvements.

10. If the above application involves the granting of a final subdivision or site plan approval, the Chairperson and Secretary of the ETZBA shall not sign the final subdivision or final site plan plat nor shall any zoning permit issue until the applicant has demonstrated that all conditions of the final approval have been satisfied.

11. If a minor subdivision approval has been granted, such approval shall lapse unless within 190 days from the date the approval has been granted the applicant either files a plat in conformity with the approval and the "Map Filing Law" (N.J.S.A. 46:23-99, et seq.) or records a deed with the county clerk which clearly describes the approved minor subdivision and files a copy of the deed with the Township's Engineer and the Township's Tax Assessor. Such deed shall also be signed by the Chairman and Secretary of this Board.

12. As part of the first application for final approval, the application shall provide a construction schedule as

required by the Evesham Township Ordinances which must be satisfactory to the ETZBA Engineering Consultant.

13. The applicant shall comply with Title 39 of the New Jersey Statutes.

14. The applicant shall construct all drainage basins upon the P.I.Q. including inflow and outflow structures, prior to the commencement of any construction upon the P.I.Q.