EASTCHESTER ZBA - 2/11/2020

THE CHAIRMAN: Good evening and welcome to the town of Eastchester Zoning Board of Appeals meeting for Tuesday, February 11, 2020. We begin our meetings with the Pledge of Allegiance. Please rise.

(Whereupon the Pledge of Allegiance was said.)

THE CHAIRMAN: While we're getting situated, I just want to go over some of the ground rules, as I do at the beginning of every meeting.

Firstly, we follow Robert's Rules of Parliamentary Order.

Secondly, I'm going to call the roll. We have on tonight's calendar, four matters that are on for resolution that will be decided tonight. We have a matter of old business and a matter of new business. Our resolutions are on for resolution.

Old business, this is item number 5, 19-52, 7 Knotwood Road, is the applicant here and ready to proceed? Yes. Okay.

Our item of new business is number 6, 19-35, 191 Oakland Avenue. The applicant is...

MR. CAHALIN: Second.

THE CHAIRMAN: Mr. Cahalin. All in favor.

MR. CAHALIN: Yes.

THE CHAIRMAN: Mr. Cahalin. Mr. Miller. Yes.

THE CHAIRMAN: Mr. Miller. Mr. Nurchia. Yes.

THE CHAIRMAN: Mr. DeMarco. Mr. DeMarco: Second.

THE CHAIRMAN: I vote yes. That application has been approved five to zero.
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record and proceed.

MR. IANNACITO: Good evening. My name
is John Iannacito, I'm an architect, and I'm
representing Mr. Tulotta, the owner of the
subject property. We are proposing an
in-ground swimming pool at the rear of the
existing property.

Based on the comments that we received
at the last meeting, we did relocate the pool
equipment. The new pool equipment location is
highlighted here. The new location will comply
with both the rear yard and the side yard
setbacks. We're also removing an existing
non-conforming shed, which is highlighted here
in red, and the revised application will now
require only one area variance, which is the
rear yard setback to the pool. The proposed
setback is 6 feet, required is 10 feet, a
deficiency of 4 feet or 40 percent.

Thank you for your time. I'm happy to
answer any questions.

THE CHAIRMAN: Mr. Iannacito, thank
you for synopsizing the variations in the
application. Before we hear from any of the

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there was a retaining wall. I'm sure that this
gentleman, John, is a fine architect, but there
is no retaining wall on that property. Also
mentioned was a dry well that the water would
be draining off into. No mention was made
tonight with the new proposal. I would like to
hear more about that. I believe I heard that
it was mentioned that perhaps the dry well
could go in the front of the house, 7
Knollwood. Well, the topography of the land
there, Knollwood Road is almost the top of the
hill. Everything slopes from Knollwood, down
to Oakland, and then down onto Dale Road. I
don't know how water would flow from the
backyard into a dry well that was located on
the front yard. Last time I looked, water
flows downhill, not uphill. So I would like to
have a little clarification on that.

It was also mentioned that the town of
Eastchester does not count swimming pools as
impermeable surfaces, which is fine, I can't
object to that, but I would like to say,
perhaps that calculation is used for the size
of a dry well and other drainage type things,

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but when you're looking for a 40 percent
variance, I think that should still be
considered in the minds of the board. Thank
you very much.

THE CHAIRMAN: Thank you for your
time.

Mr. Iannacito, before you address
that, I just want to see if anyone else from
the public has any interest in being heard on
this application. Would anyone else from the
public like to be heard on this application?
(No comments.)

THE CHAIRMAN: Mr. Iannacito, would
you like to come forward and address that,
please.

MR. IANNACITO: I guess the first one
would be the question about the retaining
walls. I did go out and there is no existing
retaining wall behind the fence currently.
Currently, the grade just slopes down from this
property down towards Oakland. There is a
retaining wall on the property at Oakland at
some point and then it drops further down. We
are going to be installing a new retaining wall

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along the property line, a 2 foot retaining
wall, because we're going to level off the back
part of the pool because the pool patio and the
pool itself is going to be level. So we're
going to raise the grade 2 feet along the rear
property line and have a 2 foot retaining wall
along that rear property line.

As far as the drainage, we are
providing dry wells for the increased
impervious surfaces, and the dry wells will be
located at the front of the property, which I
show here, the two 330 CULTECs, and then we'll
have a linear drain along the new pool patio,
and a pipe that will go from that drain to the
front of the property to the new dry wells. We
can't have the dry wells in the back because
the dry wells need to be 10 feet off the
property line.

I think that was the three questions
or two questions. Is there another question?
Retaining walls and dry wells.

THE CHAIRMAN: Thank you, Mr.
Iannacito. If you remain, I'll see if the
board has any questions or comments. Mr.

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foot area variance.

MR. MILLER: Then it's not feasible?

MR. IANNACITO: It's not feasible for this application, no.

MR. MILLER: That's what I was getting at.

THE CHAIRMAN: Anything further, Mr. Miller?

MR. MILLER: No.

THE CHAIRMAN: Mr. Nurzia?

MR. NURZIA: No.

THE CHAIRMAN: Mr. DeMarco?

MR. DE MARCO: Nothing.

THE CHAIRMAN: I don't have anything.

I make a motion to close the public hearing on this matter; is there a second?

MR. MILLER: Second.

THE CHAIRMAN: Mr. Miller. All in favor.

(All aye.)

THE CHAIRMAN: Having nothing further from the board, I make a motion to adjourn this matter for resolution at the next meeting; is there a second?

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seeking a variance for the front porch. The allowed is 20.5 feet, we're asking for 37 feet of porch to be allowed to be built on the home.

The way the drawings have been presented to you, I have an existing front elevation and a proposed. The reason I marked this as existing, this was the application that was before the Planning Board and the ARB in 2019, and it was approved to be built this way.

So at this point, I'm considering this existing. The package shows photographs of a single story cottage style house, which will become this. I'm sure you've all driven by and it is that right now as far as framing goes.

We are proposing to add a porch to the left-hand side of the existing portico and tie it into a porch on the side of the house, which was, again, proposed and approved. The porch is approximately 16 feet from the edge of the house to the portico, plus the 8 feet, it's going to step out an additional 5 feet to meet up with that porch line across the front of the house.

The owner actually has already built

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and there are other homes in the immediate vicinity -- this one being the third one, it was cut off by the drawing -- that show porches of similar size and nature. So it's not something that we're adding to the neighborhood that's never been there before. We're not asking for anything above and beyond, we believe, but again, I'm happy to answer any questions. It's probably easiest that way.

THE CHAIRMAN: Okay. Thank you for presentation.

So at this time we usually reserve time for the board to ask questions or make comments before we open it to the public. Mr. Cahalin?

MR. CAHALIN: Yes. I have several issues with this project, but I'll try to stay to the test.

First of all, an 80 percent variance is an extreme variance. Unfortunately, you picked a board member that lives in the neighborhood. I totally disagree with the number of properties that have porches, and if they do have porches, they're not 60 or

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80 percent of the front of the house, I can guarantee you that without having to look there. I've lived there 23 years, I've walked that neighborhood several times in that 23 years, and recently I looked at it. So there is no one with this size or extent of a porch. There are smaller porches. This changes the character of the neighborhood. The house is a big house on the property. My neighbors have been coming to me for months and I told them it was by right. Well, now it's not by right. You're asking for an 80 percent variance. I have a problem with that. To me, that's an excessive variance and that doesn't add much to the house, in my opinion. It changes the neighborhood dramatically. Those are my issues.

THE CHAIRMAN: Any questions of the applicant, Mr. Cahalin?

MR. CAHALIN: None.

THE CHAIRMAN: Mr. Miller?

MR. MILLER: I agree with Mr. Cahalin with respect to the percentage that you're requesting. I'll be honest, I was a little upset -- well, I was a lot upset -- about it being built without permission, authority, however you want to look at. I would like to hear what the reasons are for why you chose to build it after you apparently were in front of two other boards.

MR. FINELLI: I would defer to the homeowner, if that's okay. I can have him answer that question.

THE CHAIRMAN: Sure. Please.

MR. FINELLI: Nick. If I could just answer quickly, the 80 percent variance, I believe the numbers might not necessarily be correct. We went with what was given to us by Jay King, but in looking at the house, 80 percent would mean that that porch went from the front of the house basically to the middle of the garage.

MS. UHLE: His Notice of Denial is not saying that the porch extends across 80 percent of the house, it's that yours is 80 percent larger than what is otherwise permitted because you're allowed to extend 30 percent. If you're extending somewhat more than that, then the

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variance is 80 percent based on what you're permitted to do, but it's not saying that the porch is extending 80 percent across the width of the house.

MR. FINELLI: 20.5 feet was allowed and we're going 37 feet.

MS. UHLE: He'll check because that's important.

MR. KING: You're extending it 21 feet, I believe, more than what was allowed.

MR. FINELLI: No, it was 16 feet. So 20.5, 37 is 16 and a half.

MR. KING: Isn't it 13 and 8?

MR. FINELLI: 13 is the size of the existing portico.

MR. KING: Isn't it 13 from the end of the portico to where the end of the house is?

MR. FINELLI: From here to here?

16 feet.

MS. UHLE: He'll look into that and then maybe you could answer Mr. Miller.

MR. FINELLI: I just wanted to ask. I wasn't sure. I figured since it came up, I might as well see if I could get clarification.

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THE CHAIRMAN: Our Building Inspector, Mr. King, will take a look at that. You may want to proceed with what Mr. Miller was asking.

MR. DE MARZO: We were just at the point where the framer was there, he was going to another job, he couldn't come back for another month, month and a half, so like Michael said, if we did build it and you guys didn't approve it, it's easier for us to take it down than to have a crew come in a month, month and a half then it would slow the project down for the siding, the roofing, and all that stuff. That's why we just put it up at that point and if we didn't get the okay, then we would have to take it down. It was not done to, you know, piss anybody off or make anybody mad. It was just done because the framer at this point had to leave.

THE CHAIRMAN: Mr. Miller?

MR. MILLER: I understand why you did it, but if we -- and it's not within our power to start fining, that's for somebody else to do, but if we kind of took that rationale with that.

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every project in town, we might as well throw the whole zoning code out. I don't always abide by the -- what's the -- it's easier to ask for forgiveness than to ask for permission, I don't particularly abide by that in certain circumstances, but I understand why you did it.

MR. CAHALIN: My point is, if you're going to cover that, right -- you're going to put some kind of covering on that porch, roofing of some material?

MR. DE MARZO: Yes.

MR. CAHALIN: And you're telling me you want me to believe that it would be cheaper to take it down than to build it?

MR. DE MARZO: No. The top roof was already put on.

MR. CAHALIN: I know. The porch is built; right?

MR. DE MARZO: Right.

MR. CAHALIN: It's there. So you're going to cover it in some kind of roofing material?

MR. DE MARZO: We haven't done that yet.

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MR. CAHALIN: You haven't, but you just said that the project is going to proceed; right? So you're not going to cover that space at all, you're going to wait until a month from now until we decide?

MR. DE MARZO: Right.

MR. CAHALIN: That's what you're going to do?

MR. DE MARZO: Yes.

MR. CAHALIN: Because that's not what you said. You said you were going to cover it so the project was going to proceed.

MR. FINELLI: If I could respond to that. I actually spoke with Ms. Uhle yesterday, and it's my understanding that there is actually a stop order that's either in effect or going into effect for that portion of the porch for that specific reason, to make sure nothing proceeds. If it has to come down, it's just the wood and framing that's there.

No roofing will be done, no finishes will be done.

MR. CAHALIN: That's not what I heard.

MR. FINELLI: I'm just clarifying for

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spot on. It wasn’t me questioning his math, it
was just asking because hearing you say it back
to me, 80 percent sounds so much bigger than
what it actually is. So I just wanted to
address that.

THE CHAIRMAN: They’re looking at that
now. The wonderful thing about math is, math
is math. It’s not a question of an opinion.
They’re calculating that right now.
While they’re doing that, what I’m
going to do is make a motion to open this
matter to the public for a public hearing on
it; is there a second to my motion?

MR. CAHALIN: I’ll second it.

THE CHAIRMAN: Mr. Cahalan. All in
favor.

(The aye.)

THE CHAIRMAN: Would anyone from the
public like to be heard?

(No comments.)

THE CHAIRMAN: Seeing nobody, I make a
motion to close the public hearing on this
matter; is there a second?

MR. MILLER: Second.

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THE CHAIRMAN: Mr. Miller. All in
favor.

(The aye.)

THE CHAIRMAN: Before we go back to
the board for questions or comments, I want to
await the calculation so we get some clarity on
this.

MR. MILLER: Why don’t we take a five
minute break?

THE CHAIRMAN: I’m not sure if we need
it. We’ll see.

MS. UHLE: You’re allowed to have
something that’s 20.5 feet, you’re at 37 feet,
which is a 16.5 foot difference, you divide
that by the 20, so you’re allowed only 20. At
37 you’re at 80 percent more than what you’re
allowed.

MR. FINELLI: Like I said, I know Mr.
King is usually spot on.

THE CHAIRMAN: The public hearing
having been closed on this matter, let me go
back to the board for final questions or
comments of the applicant. Mr. Cahalan?

MR. CAHALIN: None.

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STATE OF NEW YORK  
)  
) Ss.  
COUNTY OF WESTCHESTER)  

I, DINA M. MORGAN, Court Reporter and Notary Public within and for the County of Westchester, State of New York, do hereby certify:  

That the above transcript was taken from a videotape of the actual hearing. I was not present for such hearing. The videotape was taken and transcribed by me to the best of my ability.  

And, I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.  

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of March, 2020.  

DINA M. MORGAN  
Court Reporter  

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