

TOWN OF MONROE ZONING BOARD OF APPEALS MINUTES

— 01/23/2024

TOWN OF MONROE ZONING BOARD OF APPEALS (Tuesday, January 23, 2024)

Generated by Norinne McSweeney

Members Present:

Kevin Scully, Chip Postiglione, Steven Thau, John Seeley, Zachary Murphy

Board Counsel:

David MacCartney, Esq.

1. Welcome

Procedural: 1.01 Roll Call

Procedural: 1.02 Pledge of Allegiance

2. Administrative

Action, Discussion: 2.01 Appointing of ZBA Attorney

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to appoint Feerick, Nugent and MacCartney as Counsel for the ZBA with David MacCartney as our primary counsel for the term ending December 31, 2024.

Motion by Chip Postiglione, second by Steven Thau.

Final Resolution: Motion Carries

Yea: Kevin Scully, Chip Postiglione, Steven Thau, John Seeley, Zachary Murphy

Nay: 0

Abstain: 0

Action, Discussion: 2.02 Appointing of Assistant Chairman

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to appoint Steve Thau Deputy Chairman in the absence of the Chairman for the term ending in December 31, 2024.

Motion by Chip Postiglione, second by Steven Thau.

Final Resolution: Motion Carries

Yea: Kevin Scully, Chip Postiglione, Steven Thau, John Seeley, Zachary Murphy

Nay: 0

Abstain: 0

3. Continued Public Hearing

Action, Discussion: 3.01 **Town of Monroe Planning Board**

Chairman Postiglione we have 62 days to render a decision. I believe we will need that time to gather all the information that we have been given to this point to go ahead and move forward.

Jonathon DeJoy - if the Planning Board does appear after I leave would the board be willing to accept written comments for another 10 days. I just want to have the chance to respond.

BE IT RESOLVED, that the Zoning Board of Appeals for the Town of Monroe hereby makes a motion to close the public hearing.

Motion by Chip Postiglione, second by Steven Thau.

Final Resolution: Motion Carries

Yea: Kevin Scully, Chip Postiglione, Steven Thau, John Seeley, Zachary Murphy

Nay: 0

Abstain: 0

4. New Public Hearings

Action, Discussion: 4.01 **Chris Robinson** (Z081-2023) SBL # 34-2-2.1 124 Second Ave, Monroe NY

Applicant:

Chris Robinson - owner

Before the board for an area variance for a pool.

Chairman Postiglione -

- lot area pre-existing
- side yard pre-existing
- front yard pre-existing

Mr. MacCartney -

- lot area, front yard and side yard are all pre-existing
- unclear to me the lot coverage
- maybe give the board an overview of what is going on at the property

Mr. Robinson -

- the only discrepancy that I was aware of is an encroachment of the setback
- I did get a permit for the pool
- due to the nature of the property and the ledge there is an encroachment on the rear of the property, which is land of Palisades State Park, which is a few feet 3.5 I believe

- did get a permit to build
- issues with getting pool closer to the house because of the land itself
- the pool is 8.3 ft off the house where it is suppose to be 15

Mr. MacCartney - permit originally had it at a different distance and you had to move it closer due to site conditions is that what happened

Mr. Robinson - yes

Mr. MacCartney - what did it originally fully compliant

Mr. Robinson - yes it worked out great on paper I just squeezed it in there and you know when it came to the real world that's what ended up happening I thought I was a lot closer I thought I was only like a foot or two off but when we came and had the survey redone it was a little bit further 7 feet right but like I said it's the back just all state park it's woods for miles.

Chairman Postiglione - the lot area coverage was pre-existing it has nothing to do with the pool, the pool didn't have any any influence on your coverage

Mr. MacCartney - the Palisades Park is right there it abuts your property

Mr. MacCartney - was there a GML review sent out to County Planning

Chairman Postiglione - any other comments from the board as they reviewed this, see anything out of the ordinary, it's the copy the surveys it's pretty cut and dry. Member Murphy do you see anything that we might have missed?

Member Murphy - no unless we need to get a hold like you said the Palisades to see how they feel about this.

Chairman Postiglione - Ms. McSweeney will look into that and let us know

Chairman Postiglione - is there in the audience that would like to make a comment or have an opinion on on this property please come on up, you can use the podium

I'm sorry if you could just state your name and address

Timothy Casey - 220 First Ave Monroe, NY I'm Chris's next door neighbor I'm to the left of his property and I have no objection to his request for the variance

Chairman Postiglione - anyone else. All right if there's no other comments from the public we're going to have to keep this open to find out about the Palisades Park.

Mr. MacCartney - let's get to the bottom of that right away because if it was not referred let's referred immediately tomorrow so that we have 30 days.

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to open the public hearing.

Motion by Chip Postiglione, second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Kevin Scully, Chip Postiglione, Steven Thau, John Seeley, Zachary Murphy

Nay: 0

Abstain: 0

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to continue this public hearing until the February 27, 2024 meeting.

Motion by Chip Postiglione, second by Steven Thau.

Final Resolution: Motion Carries

Yea: Kevin Scully, Chip Postiglione, Steven Thau, John Seeley, Zachary Murphy

Nay: 0

Abstain: 0

Action, Discussion: 4.02 **Yirmiyahu Weiss** (Z082-2023) SBL # 7-3-2 210 High Street, Monroe, NY

no show

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to open the public hearing

Motion by Chip Postiglione, second by Steven Thau.

Final Resolution: Motion Carries

Yea: Kevin Scully, Chip Postiglione, Steven Thau, John Seeley, Zachary Murphy

Nay: 0

Abstain: 0

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to hold over until February 27, 2024 meeting.

Motion by Chip Postiglione, second by Steven Thau.

Final Resolution: Motion Carries

Yea: Kevin Scully, Chip Postiglione, Steven Thau, John Seeley, Zachary Murphy

Nay: 0

Abstain:0

Action, Discussion: 4.03 **Richard & Sharyn Hernandez** (Z083-2023) SBL # 26-4-13 8 Elmwood Dr, Monroe, NY

Applicants:

Daniel Castricone - Attorney

Mr. Hernandez owner

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to open the public hearing

Motion by Chip Postiglione, second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Kevin Scully, Chip Postiglione, Steven Thau, John Seeley, Zachary Murphy

Nay: 0

Abstain: 0

Chairman Postiglione - you are here for a variance for lot coverage area because of a pool
Mr. Castricone - not for a pool but for the pavers. We made an application with the Planning Board followed the plan and are trying to sell their home and it popped up that they were 7% over with coverage with the pavers. maximum is 25% to proposed 31%. We have proof of the mailings here.

Chairman Postiglione - your coverage went from a maximum is 25% to proposed 31%.

Mr. MacCartney - just so I understand that you're saying that there was an approved plan by the Planning Board just as is and it just it was never picked up that it was built as planned but it's just over so now you're looking for the relief formally to help with the sale.

Chairman Postiglione - any questions or comments from the board?

Mr. MacCartney - for my notes when was that Planning Board approval?

Mr. Hernandez - about 3 years ago

Chairman Postiglione - if there is no other questions or comments from the board, we appreciate your time and if there's anybody out there regarding this project please step forward. In my opinion, this is just a very simple project here I feel like we can make a determination here tonight, I just want to know does anyone disagree with that.

Mr. MacCartney :

the board reviewed the 5 factors as you know it's a balancing test weighing the benefit to the applicant against any detriment to the health safety and Welfare of the community guided by five factors:

1) whether there' be an undesirable change in the character of the neighborhood or a detriment to nearby properties caused by the grant of the area variance

1a) no

2) whether there is a feasible alternative to achieve the benefit sought without the granting of an area variance

2a) no

3) whether it's substantial

3a) no

4) whether there' be an adverse effect or impact on the environmental conditions of the neighborhood

4a) no

5) whether it's self-created

5a) no this was given them by the Planning Bboard

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to close the public hearing.

Motion by Chip Postiglione, second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Kevin Scully, Chip Postiglione, Steven Thau, John Seeley, Zachary Murphy

Nay: 0

Abstain: 0

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to approve their application.

Motion by Chip Postiglione, second by Steven Thau.

Final Resolution: Motion Carries

Yea: Kevin Scully, Chip Postiglione, Steven Thau, John Seeley, Zachary Murphy

Nay: 0

Abstain: 0

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion for Council to prepare a resolution to that effect and authorize the Chairman to sign it if it's consistent with what's occurred here tonight.

Motion by Kevin Scully, second by Steven Thau.

Final Resolution: Motion Carries

Yea: Kevin Scully, Chip Postiglione, Steven Thau, John Seeley, Zachary Murphy

Nay: 0

Abstain: 0

5. New Projects

Action, Discussion: 5.01 **The Georges** (Z084-2023) SBL# 13-3-28 East of Saint Georges Ave, Monroe, NY

Applicant Representative:

Mike Morgante - Engineer for this application

Mr. Morgante -

- it's typical for this area in the Town of Monroe we have lots of private roads that haven't been dedicated to the town at this point so the applicant submitted a building permit for residential site plan and as we had expected we were denied for a 280-A variance because this particular parcel as all the others in this area do not have Frontage on a Town Road so what we're seeking before this board is relief from that requirement of a 280-a variance

Mr. MacCartney - for the board members we haven't addressed too many 280-a variances but does anybody have any questions about that process what it is that's going on here.

Chairman Postiglione - the frontage but also is there no tree plan is that something needs to be addressed by us there.

Mr. MacCartney - I don't think that's a variance issue that's just a building permit issue that Mr. Maldonado appears to have noted that he can't issue the permit until that's submitted and I'm sure that'll be submitted as part of that I don't think that's before this board right now.

Mr. Morgante - that is 100% correct. I can give a quick presentation to the board go to we could start on page two we'll take a look at the existing conditions I mean so the site is essentially vacant at this point if you look at the left hand corner you'll see a North Arrow there so that we can get our bearings you have St George's

Avenue and what you're looking at essentially in the center of the page is tax slot 13-3 D28 it's just shy of one acre it's 0.98 Acres this particular parcel has Frontage on both Prospect Street and St George's. Prospect Street being to the west and St George's being to the east. It's got a pretty gently rolling topography there's nothing essentially very steep in this particular area at least not on this lot and what we've done is we've located all the adjacent parcels as well um that also have Frontage on Prospect Street located to the South. If you go to page three you'll see that we are in the SR-15 Zoning District bulk zoning table is in the upper right hand corner essentially we meet all of the requirements just not having frontage to a Town Road for the 280-a variance and if you look again at the same parcel you'll get an idea for the location where we are are placing the dwelling which is essentially in the Southeastern portion of the subject parcel with a driveway that would have access on to St George's Avenue so that's just a site plan and it'll give you an idea of how you know it meets the requirements of the Town zoning code from there if we move to page four you will see a little bit of engineering there you'll see a grading plan.

Chairman Postiglione - are you hooking up to Town water

Mr. Morgante - we are proposing a well which is located roughly in the center

Chairman Postiglione - I meant a sewer?

Mr. Morgante - the idea would be to connect to the Moodna Sewer District. We are showing a sewer connection if you look at the bottom right hand corner of the proposed dwelling you'll see a line there with an s in it that would be our sewer connection location. We've graded the

driveway such that we can get into the dwelling I mean I think it's kind of important to at least give the ZBA an indication that you're not approving a project that cannot be built so in this case we have no issue building this particular project. We'd have a proposed well, we would have a sewer connection, we would have a driveway access off of St Georges with a single family dwelling four bedrooms as noted there. We've given an approximate square footage for that particular dwelling footprint which is 1500 square feet I don't think the ZBA will be interested, but sheet five is just standard construction details for the project nothing really for you to review I just figured I would mention what that sheet contains so that's a general overview of the project I'd be glad to entertain any questions or concerns the board might have.

Chairman Postiglione - I see on page two which is pretty much the the Topo portion of it you've got um running from west east type if you want to call it about a 40 foot elevation difference change in grade.

Mr. Morgante - yes so in the northern corner it looks like we're approximately 835 right and it looks like in the 789 Southern around 785 actually 835 you're looking almost actually 50 feet keep in mind that property length is almost 367 ft from one end from the front of the property to the rear of the property is almost 367 ft so it's a long narrow lot. The impervious surface that we're proposing here is very minimal just the dwelling and the residential driveway for a lot that size.

Mr. MacCartney - typically the issues that you're looking at with a 280-a Variance or the nature, quality, and safety of the road that they're attaching to and where it leads to and how to get to, where's the next thoroughfare and what's going on with emergency vehicle access and so on. Do you have anything on that?

Mr. Morgante - I can't tell you how many of these I've done actually in the Town of Monroe six or seven somewhere in that range I've not done one with any person though that's on this current ZBA so what I can tell you I've done in the past, is essentially what we've done is we've had to improve that section of the road that we are connecting to which this applicant is more than willing to do and at some point, what I've done is provided for some type of Emergency Services turnaround. We can't be turning around on a gravel road. I've done situations where if we have the room within St George's Avenue we have St George's in Hilltop we could pave a portion of that and create like a tee turnaround on Hilltop. Other things I've done are actually utilize the particular residential driveway I've widened it to 16 to 18 feet wide and granted an easement to the Town and essentially the Emergency Services Personnel that can utilize the actual driveway itself after the event that they're responding to is completed and they're able to utilize that actual driveway as part of a turnaround. So those are the the few different approaches I've taken in the past it's certainly at the board's discretion and possibly even a discussion with Emergency Management Services to see what kind of input and preference they may have. We certainly could get in touch with the Monroe Joint Fire District and have a discussion with them.

Chairman Postiglione - so looking at that am I seeing it correctly where St George's in Hilltop that kind of tee

Mr. Morgante - correct there's no improvement on Hilltop whatsoever there is a gravel road on St George's St

Chairman Postiglione - St George is just dead ends up there as you go past that intersection.

Mr. Morgante - truthfully I would have to do the site visit myself we only surveyed this area that was required for this particular portion of the development I didn't think we would need to go any further than that I think it could solve any issues we have within this area.

Open discussion regarding the area beyond this parcel with Hilltop and St. George.

Chairman Postiglione - Mr. MacCartney you asked the question did you say that there was a possibility of improving St George Avenue?

Mr. Morgante - I think it would be beneficial to both the applicant and the town if St George's was improved so if you take a look at the southerly most adjacent parcel that would be section lot 11 c18 it's you'll see that Prospect has kind of been improved almost to the end of that property it looks like there's a asphalt road in that location so just about to where our property line begins a little bit before would make sense for the applicant to continue that asphalt road at least through their entire Frontage of their property and somewhere along the way of heir Frontage and possibly even encroaching into Hilltop a little bit we could probably prepare an adequate fire truck turnaround so the Emergency Management Vehicles can safely access the site. We can coordinate that with the fire district we'll set up a meeting as I've done before and make sure that they feel that it's an adequate approach.

Mr. MacCartney - I think it would be appropriate to look at you know consulting with fire maybe get to the emergency management and to the town engineer and just hook up on all these issues and work on it with them and have a collective set of recommendations to the board. Chairman Postiglione - getting way ahead of things here, but would that be something that if this was approved that we can have that as a stipulation.

Mr. MacCartney - certainly, that's what you would do if it got to an approval it would be conditioned upon each of these things that the fire and the engineer and everybody has agreed hopefully there's agreement with the applicant and there's a plan that's been developed that everybody agrees is safe and efficient and appropriate.

Chairman Postiglione - the plan single family home that's going you do you have any building plans

Mr. Morgante - actually yes a full architectural plans were submitted to the building department because we have a denial letter from them so I believe if you we could probably submit those to the ZBA

Chairman Postiglione - I'd appreciate that we try to main as consistent as we can on this board and it's something that we ask for almost every applicant just get a feel for that we can provide that next middle all right.

Member Seeley - (Inaudible) other 280-a Variances before the ZBA

Mr. Morgante - let me search my files I can have some at the next meeting

Mr. Morgante reviewed had different things have changed over the years in the ZBA approving 280-A variances and things that he has done on some of the properties he has presented to the board as far as drainage, emergency services and paving where necessary all along private roads. There is an HOA associated with the private roads where the homes located on said roads are responsible for the maintenance of the roads.

Mr. MacCartney - have you submitted anything that shows what the ownership rights are along St George's like who owns that strip and what's your right to use it Etc Mr. Morgante - I have the deed and I can certainly provide that for the next meeting

Chairman Postiglione - is it as simple or are you moving forward to extend where you have paved and where it's gravel and you're going to coordinate with the people that you need to coordinate, but it's not just as simple is that you need to show grading plan right or all that type of or you're not because it's a private road you know what I mean you just can't go in and and pave that gravel and if it's not going to drain correctly or anything of that nature you're going to have to show some type of grading plan road plan.

Mr. MacCartney - certainly I think what the process that will be followed is that the applicants going to get together with the various professionals and whether it's Emergency Management fire but also the engineer maybe the town have the Town Engineer look at it and basically engineer from the ground up what that entrance is going to look like from Prospect all the way back to as far back as it needs to make sure that it's again safe structurally intact not going to create drainage problems it's pitched correctly it drains right it's safe for people to access and it's safe for emergency Ingress and egress in case of emergency all of that will be done and all this is not going to be just hey you promise to work it out with those people it'll be worked out as part as the applicant is before the board he will be Consulting with them and bringing us plans to look at and say this is what we're agreeing on and this is where decisions may be need to be made or not right.

Mr. Morgante - that's correct. I'll preface this by saying I take no exception if the Town Engineer gets involved in the review, I don't believe they did in any of the previous applications. It's on me my license is on the plan so I need to make sure that if I design this that Emergency Management Vehicles can access the site and I got to make sure for instance if you look at my grading plan I have a culvert underneath the driveway to make sure I can pass water from one side of the driveway through to the other. I would add some rip wrap at the end of that Culver to make sure that I slow the water down a little bit and it doesn't have too much velocity I mean these are the things I would take a deeper look at. This is first appearance before the board and I figured it would be a good meeting to kind of

Member Scully - the drainage is an issue yeah in that specific area.

Mr. Morgante - I'm aware of that it's an issue everywhere up in this area and we've always made sure to provide for proper Culvert Crossings we even have rip wrap lined the ditches a

little bit further than normally to make sure that we don't have any erosion issues. We have placed check dams inside those drainage ditches to just slow the velocity of the water down a little bit so we can certainly do all those things that's not an issue.

Member Thau - on the issue of the water you said there's going to be a sewer connection. Do you know what Sewer District that is?

Mr. Morgante - we are in Moodna and Moodna is in a moratorium right now. We would be seeking to get a 280-A Variance and we would still need to wait until we were able to make a connection Moodna until once that capacity is available.

Member Thau - I think as far as the property size right you're under an acre and then you have an issue as far as if you can't get a connection then a septic.

Mr. Morgante - so we looked at that as well, we have mapped the wells you don't see it on this plan it was done subsequent to this one so we did map all the wells along the properties that are to the south of us there's I have to take a harder look at it there's not that much room left over for a septic system when I have to maintain my separation distances to neighboring wells I'm not saying to you I can't do it I'm saying to you it may make more sense for the applicant to wait until capacity is available in Moodna. I will discuss that with the applicant and see if they want to propose a septic system at this time if we can design one and then later on when capacities available with Moodna they could connect if they choose to do so, but at this point in time right now I think we're just looking for the 280-a variance and then we would deal with sewage disposal as a matter of dealing with the building department.

Chairman Postiglione - that's completely up to them right

Mr. Morgante - I don't know if the applicant would want to wait, if they may be interested in pursuing a septic system right now but either way it's we're encumbered to provide that information to the building department for the building permit.

Chairman Postiglione - I think we've given each other enough to think about here and what just to recap what we like to see is the plans for the dwelling just to get a feel for what's there.

Member Seeley - asked a question inaudible

Mr. Morgante - I think at this point right now I need to probably go back and discuss with the applicant for sure the way they want to move forward and we can improve the plans based on the information that we spoke about tonight. Maybe I have a meeting with Monroe Joint Fire district and get some of that stuff going and hopefully at the next meeting I come back to we'll have some additional information on the plans that maybe the board could at that point take into consideration for scheduling a public hearing.

Action, Discussion: 5.02 **Nelson Luciano** (Z079-2023) SBL # 15-4-30 78 Cromwell Hill Road, Monroe, Ny

Applicant:

Nelson Luciano

Mr. Luciano - summary of what needs to be done -
pool and a gazebo that is my side yard faces Park Terrace

my house is 78 Cromwell Hill Road but my front faces Park Terrace so that would be my side yard entrance

there is no backyard

I put in a pool I wasn't aware that it wasn't going to fit it is around 19 ft and required is 40 ft from the property line

the gazebo is 15 feet off the property line

neighbors are ok with it I got letters submitted to the board are ok with the pool and gazebo

Chairman Postiglione - the pool is new when did you do this pool?

Member Scully - you were before the board previously for a pool

Mr. Luciano - there was a large oval pool about 32 ft I took that one down

Member Scully - I think there was an issue with having a pool in the front yard

Chairman Postiglione - is the pool oval or round now

Mr. Luciano - the pool is oval now. It's basically in my front yard, but my front yard is the biggest piece of property/land that I have that's why technically I said it was my side yard because it faces Park Terrace but my address is Cromwell Hill Road. The lot coverage is supposed to be 25% I'm at 43 I believe.

Member Scully the as built survey has 48.2

Chairman Postiglione - when you tore down your round pool and put in the above ground oval pool about a year or so ago did you get a permit?

Mr. Luciano - no I purchased the pool and I hired somebody to put it in. I was I wasn't in town when I came back there was a discrepancy I wanted to wait for the permit there was a discrepancy with my wife and everything else and I came back and it was already installed. So I went to town and I eventually applied for the permit and I got denied. I looked at SR10 where it said a corner lot the pool would have to be 25 feet from the property line my old survey set sr10 I don't know how it switched to SR-15 but Mr. Maldonado told me that it's a SR-15 now. I spoke to the surveyor from years ago before I purchased the house and he told me you should be grandfathered in and I went back to Mr. Maldonado and we went back and forth, but there is no grandfathering in so SR-15 now makes it 40 feet from the property line.

Member Scully - Grandfather in would be pre-existing nonconforming if it was installed before it was switched over that would be pre-existing non-conforming or grandfathering issue putting.

Member Thau - these other issues are they still open as well the fence on the right away, the Gazebo the shed still an issue as well.

Mr. Luciano - yes so I was applying for a variance for the Gazebo, the shed, the fence and the pool now.

Chairman Postiglione - were you issued a stop work order on this pool that made you go to town? Was there complaints from the neighbors that set off or what prompted this?

Mr. Luciano - I couldn't tell you, I don't know.

Member Thau - were you issued a violation from the Building Department is that what

prompted it or what brought you here tonight?

Mr. Luciano - yes a violation for the Buildings Department. No neighbors told me they complained at all.

Mr. Thau - that you're aware of.

Chairman Postiglione - so the Gazebo is that new?

Mr. Luciano - the Gazebo has been there for some time I it's been there since the round pool was there

Chairman Postiglione - same with the shed?

Mr. Luciano - no the shed it was just put up this summer. The fene has been there since I moved in 2007.

Mr. MacCartney - I'm sorry what did you say about the shed?

Mr. Luciano - the shed was just put up this summer.

Chairman Postiglione - The only comment I would have here and this is just me if you knew that your Gazebo was in question right and now you're going ahead putting the shed which is closer to the line then your Gazebo was. You have a problem with the gazebo with their offsets right yes it's been like that for a while

now you have a problem with the pool and the offset. I don't know if there was a problem with the round pool was still up would that have still been in violation and lot coverage. With all that you knew you went ahead and you put a shed up that is four what is it 4.2 feet off the line.

Mr. Luciano - I don't know the boundaries for the shed.

Chairman Postiglione - your shed is 4.2 feet off the property line and it should be accessory structures has to be five feet. So you're .08 feet off on the shed.

Mr. MacCartney and it's also the separation from the primary dwelling right. It's there for fire safety purposes and per the zoning coat it needs to be at least seven feet.

Mr. Luciano - I think when I bought the house there was a shed in the exact same spot but it was up against the house and it came with the house all I did was the shed was rotting out so I just took it out and put another one on there but I just separated it from the house. I wasn't aware that it couldn't be against or I didn't know actually .

Discussion about the fence around the property that it is outside the property line. So it is on Town property.

Chairman Postiglione - the fence just blows it away. Your fence is into the radius I don't see on this survey how far over the property line the fence is? it in the right of way.

Mr. MacCartney - it's your property line it's built outside of your what the property that you own or it's on property you own but that is a right of way owned by the town.

Mr. Luciano - I don't know the answer to that.

Chairman Postiglione - it looks like to me from this survey it you know it looks like to me it's well over his property line. It's well over his property line on on Park Terrace on Cromwell Hill you know that intersection the radius of so it's a good 5 feet I'm just guessing here in some spots 5 feet pretty much through the radius through the Apex of all that pretty much everything

on Cromwell Hell yep and everything on Park Terrace.

Mr. MacCartney - if it's constructed outside of the property line and on town property I don't that's not an issue for the Zoning Board the Zoning Board can't give away

Town property that's what you're basically asking the board to do but you've built something on Town property as near as I can tell from the survey you can't get relief from a Zoning Board to let you just take Town property because basically what you've done you're basically you've commandeered Town property.

Chairman Postiglione - the fence is in a right way not permitted shall be removed or reinstalled inside the property. So that's just something that has to be done.

Do you have any plans on doing that?

Mr. Luciano - I do now. So I can't apply for variance.

Member Scully - there's nothing to variance it's not your property.

Chairman Postiglione - you got this in August right from Mr. Maldonado the Building Inspector so from August to now you like when I said are you planning on doing anything about the fence you said I am now but how about in August when you got this and you saw all the the three violations and him saying that this fence has got to be removed.

Mr. Luciano - I assumed and I guess I assumed wrong that I could apply for variance for the fence.

Mr. MacCartney - the only relief that the Zoning Board can make is if there's a practical difficulty caused by a part of the Zoning Code right that's what the Zoning Board can do. It can vary the requirements of the Zoning Code it can't alter property rights in terms of who owns what and who's allowed to build outside your property line. The same way the board couldn't give permission for you to build on your neighbor's property that's between you and your neighbor. if your fence went over your line and was on to your neighbor you couldn't come to the town and say give me a variance to let me build my fence on my neighbor's property you'd have to work that out with your neighbor and that's between them. This board is part of the Town it looks to me these are town roads these are not Cromwell is certainly I is and I am not sure of Park Terrace those are ownership rights. If the Town owns that property then the Zoning Board can't give you relief from that something that you either have to go and approach the Town Bboard as it's the only thing that you could do other than take it down.

Mr. Luciano - what about Park Terrace being a private road is that Town Road also or is that how does that work can of do a variance on the Park Terrace side.

Mr. MacCartney - a private road is typically going to be owned by someone not the town so those are private property rights that whoever owns the rights to Park Terrace whether it's you do you have a right of way over it are there other people that have the right of passage over Park Terrace. You probably have some rights in your deed to pass over it but I would be very surprised if you had rights in your deed to build a fence on it right. But that's not for this board can't get involved in those private property rights this board couldn't give you the right to build a fence on you know a private road that's not within this board's purview.

Mr. Luciano - should I get a lawyer to help me with this or a surveyor somebody to I don't

really understand all these zoning codes and everything.

Chairman Postiglione - surveyor where did you get the map from? You have a surveyor right what this was done in June of 2023 so you have a surveyor you know we're for advice on how you should handle this but how long you been at this property.

Mr. Luciano - I've been there 16 years

Chairman Postiglione - did you put the fence in actually my cousin put it there I was away overseas and it was put in without a permit.

Mr. Luciano - I wasn't aware you need a permit for a fence.

Chairman Postiglione - have you read this from the Building Inspector you received in August of 2024 and why you're here right. It says right here the fence on the right away is not permitted shall be removed and reinstalled inside the property line.

Mr. Luciano - I figured it's just not permitted because it went past the line that didn't realize it means get a permit.

Mr. Scully - if you would have gotten a permit they would have told you where you can and can't put the fence.

Chairman Postiglione - okay we got talked about the fence we went over the front yard lot coverage. Any other comments here that we may have missed during this discussion.

Member Murphy - we're essentially just here for the lot coverage correct the fence is out of our jurisdiction at this point.

Chairman Postiglione - the fence is just something that is just egregious that he's been told to take down. Either take it down or move it to the line but we're here for the lot coverage and the setbacks.

Mr. Luciano - can I ask you a question what exactly is lot coverage mean?

Member Murphy - how much impervious space is covered with pool house decks gazebo.

Maximum is 25% and your at 48.2% over 23% over maximum allowed.

Member Scully - we did go through this the first time you were here.

Mr. Luciano - but I didn't understand exactly as far at the house is it's a house I mean it was built there bought it was there and the rest of the I have 12 Trees in the front they grow just perfectly fine the Grass Grows great.

Member Thau - stone area what exactly is that?

Mr. Luciano - it's just a rocks I just put a bunch of rocks and a fire pit and chairs around it it's just pebbles loose rock.

Mr. MacCartney - I'm going through Mr. Maldonado's letter and I'm trying to make notes on the variances that are being applied for you know there's the issue of the fence that we've talked about which is not within the board's jurisdiction so that's not something that the board could accept and and pass upon then this is what I see in regard to the shed it looks like there's three variances necessary for the shed there's it's 4.2 feet from the property line it need to be five for the house there's it's too close to the house right and it also violates the front yard as measured from Cromwell Hill by 2 feet there's 38 ft but 40 ft are required for the shed the second thing that I see is overall lot area which is completely pre-existing

non-conforming we just can't do anything about the lot area he's not doing anything but the lot area is too low right because it's 15000 and he's got about just under 10000 square feet right in regard to the pool there's a front yard on both sides Cromwell and Park Terrace right it violates on both sides if I'm reading Mr. Maldonado's Ben's letter right the Gazebo is the same thing it violates on both sides on Cromwell and Park Terrace on the front yard so both of on the pool that's two front yard variances and on the Gazebo that's two front yard variances and then the lot coverage which is 48.2 where 25% is permitted that's what I see as the variances that are being applied for that you would have jurisdiction over. Procedurally is there anything further that you'd want to hear see or receive from the applicant you know before scheduling it for a public hearing.

Chairman Postiglione - not at all I think we have everything the applicant asked should he have a surveyor or a lawyer and again we're not in the business of giving advice or anything but maybe talk to your surveyor maybe if you're having a problem understanding this maybe he can explain it to you.

Member Thau - okay as you said you're not familiar so your surveyor would be the best person to be able to explain these things to you.

Mr. Luciano - so what would be the next step here I heard you mention to a public hearing what exactly I thought this was a public hearing?

Chairman Postiglione - no this is a new project in front of this board to exchange information on what you're trying to do here with the packet that's been given to us and it's just an information going back and forth to see everyone's understanding of what you're trying to do here. At this point if you're going to go and seek out a surveyor to talk with them I don't know if I feel comfortable even setting a public hearing unless there's more information that you can give us that will help you out or make us understand anything more. if not then is there anything that you like you you were you're your a lot of

Open discussion regarding the deck connected to the pool. Should be it's own permit. Asking applicant to double check his permit application to see how written up and denied by the building inspector. The deck regarding the setbacks were mentioned. All information that the applicant needs to get verified by the Building Inspector prior to returning to the next ZBA meeting.

Member Scully Explained to applicant what a public hearing is.

Chairman Postiglione - all right if there no other comments or questions like I said before at this point I don't feel comfortable even scheduling a public hearing at this time. I don't know if it would be up to us to ask Mr. Maldonado about the deck or up to the applicant.

Mr. MacCartney - I have a suggestion right and just sort of an observation when we're talking about the deck we're talking about it in the context of look you have an application before this

board and then we have to figure out what's the relief that the board can grant right. We've talked about we can't grant relief on the fence and we're identifying the different things that you need relief from the code on the things that I just went down and what the board is and once we're comfortable with that then the board will schedule a public hearing and the public hearing notice will list each of the variances that you're asking for and by law the public has to be told these are the variances that are being applied for so the issue with the deck is one where the board is simply saying look it might be that you also need a variance for the deck and it would make sense if you do know that now and then notice all of it at once you want it all done at once you don't want have somebody say shoot I forgot the deck you do need a variance for the deck all of a sudden you have to come back here through the whole process so given everything that we've talked about I think what the Chairman is saying is why don't we put it back on for another appearance next month but not a public hearing yet and in the meantime let's find out from Mr. Maldonado either you know both maybe you go and talk to Mr. Maldonado and Ms. McSweeney you can talk to Mr. Maldonado and say look an issue came up about the deck on the separation is the deck in compliance as it relates to the front yard setbacks or is that an additional variance that's going to be required and whatever Mr. Maldonado says if he says no you need variances then you come back you amend your application to include that come back and then that's included if Mr. Maldonado says no for the following reasons then it's not going to be before this board.

6. Minutes

Action Discussion: 6.01 July 25 2023

tabled

Action Discussion: 6.02 August 22 2023

tabled

Action Discussion: 6.04 October 24 2023

tabled

Action Discussion: 6.05 November 28 2023

tabled

7. Adjournment of Meeting

Action: 7.01 Adjournment of Meeting

BE IT RESOLVED the Zoning Board of Appeals of the Town of Monroe hereby adjourns the meeting.

Motion by Chip Postiglione second by Steven Thau.

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