

Present: Peterson, DeNofa, Canonico, Walsh, Stambaugh, Betesh, Waterbury,
Fisher, Clark
Forrester (Attorney)

Absent: none

Chairman, Mrs. Peterson, called the meeting to order at, 7:30 p.m.
All saluted the flag, and the presiding officer's statement was read.

Mr. Forrester gave the oath of office to Ms. Clark (Alt #2)

Minutes:

A motion was made by, Mr. Betesh, seconded by, Ms. Canonico to adopt the minutes of the February 4, 2009 meeting as amended. All approved.

Planning Board Representative:

Mr. DeNofa reported the following:

- Certificate of Appropriateness issued to M/M Patrick DiBello for a new roof
- Appointment of the C.O.A.H. committee

Correspondence:

Submit Disclosure Statements as soon as possible.

Unfinished Business:

LoMedico Exotic Motors:

Bl: 2, Lot: 19

Adoption of Resolution

A motion was made by Mr. DeNofa, seconded by Mr. Betesh to adopt & memorialize the resolution of approval to LoMedico Exotic Motors for a minor site plan, with variances & conditions.

Roll Call:

Affirmative: Peterson, DeNofa, Canonico, Betesh, Fisher

Negative: None

M/M Richard Montgomery:

154 Samara Dr.

Bl: 17, Lot: 1

Continuation of hearing

Mr. & Mrs. Montgomery remained under oath.

Mrs. Montgomery testified that they amended their previous application with the following changes:

- pool equipment has been moved to the corner of the property
- the 14' side of the shed will be parallel with the front of the house, leaving the 12' side facing the adjacent property
- the fence along the property line will be moved closer to the street allowing the shed to be moved further west on the property line

Mr. Montgomery stated that they shed and the pool equipment being placed in the corner would not allow them access from the shed and around the deck of the pool. They feel that the shed in its present location is the best possible location. The shed is less obtrusive to the neighbors and moves further from the neighbors.

Mr. Forrester marked the following into evidence:

- A-5: amended drawings submitted by M/M Montgomery, showing the changes as described, showing the pool in its original location, 5' s/y set back for the shed, 5' s/y setback for the pool equipment, 5' r/y set back for the pool apron. Locating the shed further to Samara Dr would allow them easier access to the shed for lawn equipment. Leaving the pool where they propose would allow them better visibility to the pool and would keep the pool away from the deck.

Mr. Forrester explained that the Ordinance would not allow the pool to be any closer than 8' from the rear of the residence.

A motion was made by Ms. Canonico, seconded by Mr. DeNofa to open the meeting to the public, for comments & question. All approved.

Mr. William Hesse remained under oath.

Mr. Hesse testified that he has reviewed the amended application and he still has the same objections as testified to last month.

Mr. Forrester marked the following into evidence:

- 0-4: amended grid marked 0-1
- 0-5: Photo from Spruce Drive
- 0-6: Photo of Spruce Drive neighbor

Mr. Hesse referred to 0-5 & 0-6 and the distance between the Montgomery property and his property, he stated that moving the pool further 8' to the north would not impact the rear property owners and the pool and their bedroom window would not be on top of each other, and would not cause any hardship and would allow room to allow the shed to remain in the corner. All three sheds would be in the corner together and allow access to the shed.

Mr. Hesse feels that turning the shed with the 12' side to his property is not a big difference and moving it west to the Samara Drive side would still be in his vision from

his back yard, lined up with the western end of the pool. Mr. Hesse pointed out that if the pool is moved 8' and a fence is erected and with the foliage that is currently that all will add to the separation of the pool to the neighbors in the rear yard. Mr. Hesse "estimated" that there is approximately 37' between the pool deck and the 50' line off of Spruce Dr.

Mr. Walsh asked Mr. Hesse if the shed is the biggest issue? Mr. Hesse said the shed is the biggest issue, but the pool equipment would also concern him due to the noise factor.

Mr. Forrester asked, he doesn't have a problem with moving the equipment to the corner as proposed in the amendment, or the location of the pool if it prohibits moving the shed to the corner? Mr. Hesse said that is correct, but he would like to see the equipment on the other side of the shed rather than in its present location.

Mrs. Montgomery said that the equipment will be located behind Mr. Hesse's shed. Mr. Hesse said that his shed is located further east than the applicant's. Mrs. Montgomery referred to 2B & 2C which shows the location of Mr. Hesse's shed.

Mrs. Peterson asked Mr. Hesse if he would like to see the equipment on the other side of the shed, where it is being proposed now? Mr. Hesse said no, he wants the shed moved down into the corner and the equipment moved to the north side. Mrs. Peterson explained that the other neighbors have to be taken into consideration.

Mrs. Stambaugh asked Mr. Hesse where is his equipment? Mr. Hesse said that it is approximately 4' from his house.

A motion was made by Mr. DeNofa, seconded by Ms. Canonico to close the meeting to the public. All approved.

Mr. Betesh asked what the distance is from the back of the house where a pool can be located? Mr. Forrester said 8' - he read Ordinance 94:8.45f "...outdoor private swimming pool shall be located not less than 8' from the side or rear of the residence on a building lot, to the rear of the building set back line, pumps shall not be located not less than 10' from any side or rear property line".

Mr. Betesh asked why can't the pool be moved 8' to the north? Mrs. Montgomery explained that in the future they would like to return to the board for an addition to their home i.e.: a 2nd garage, and since they are a corner lot they would again infringe on their backyard, and they are trying to capitalize on the backyard since that is where their children play. Mr. Montgomery said that they would like to have a fenced in area for them.

Mr. Montgomery explained that their property is unique and it is a great piece of property, with the front and side yard, but the rear yard is hard to work with. Mrs. Montgomery said that they have tried to be considerate of all the neighbors; they have made the pool smaller and tried to work around the issues of the pool.

Mr. Walsh asked Mr. Montgomery what is the hardship why they cannot move the pool north by 8'? Mr. Montgomery explained that they have a small son and they would like to contain him in a grassy area. Mrs. Montgomery explained that the set back would be 10' whether they moved the pool 8' or not, they would still need the variance. The neighbor's house on Spruce would be right at the pool area if they moved the pool 8', and they are trying to be considerate of the neighbors. She feels that it would be wiser to put a pool next to another pool rather than a pool near a bedroom. She explained that their lot narrows down as it moves toward Spruce Dr.

Mr. DeNofa asked if the house on Spruce is a 1 story ranch house and the window is 4-4 1/2' off the ground? Mrs. Montgomery said yes. Mr. DeNofa feels that if the bedroom was on the 2nd floor he wouldn't have any concerns with the pool, but he would not want to see a pool next to a bedroom. Mrs. Montgomery said that is exactly what the neighbor indicated.

Mr. Betesh asked if the shed was in the corner it would require a variance, what would be the minimum amount that they could move the pool towards the north to accomplish the goal of having enough access to the shed? Mrs. Montgomery did not calculate the distance, and since the equipment will be located there room would be needed for maintenance, and they would also like to consider a water feature in the north east corner.

Straw Poll Vote taken:

Ms. Stambaugh stated - no problem with the location of the pool or the pool equipment, but she would like to see additional set back for the shed.

Mr. Walsh would like to see the pool moved to the north in order to move the shed into the corner. He doesn't feel that the equipment is going to be loud in its present location. He feels that moving the pool a "few feet" to the north would be in the best interest of everyone.

Ms. Canonico feels that the shed should be in the rear corner as well as the pool equipment, and not near the neighbor's house. She doesn't have any concerns with the location of the pool, but if moving it a couple of feet would allow the shed in the rear corner and would solve some of the issues of the neighbors.

Mr. DeNofa has no concerns with the location of the pool, and the equipment in the corner would be appropriate. He stated that on a previous application the Municipal Land Use Law does not entitle any one "to a view" period, and looking at the side of the shed with some additional landscaping he wouldn't have any concerns in approving the variance needed for the shed.

Mr. Betesh agrees with other comments made, he has no problems with the proposed pool location, only if it prevents the applicants from putting the shed in the rear corner. In looking at the variances he feels that the only element the applicants would lose is the water feature. Moving the location would be less objectionable to the neighbors and accomplishes close to what has been proposed. He would have to vote against the application as it stands now, but if an amendment was submitted moving the pool with the shed in the corner he would be inclined to grant the application.

Mr. Fisher has no concerns with the proposed application, the primary reason being, when the neighbors came forward last month when the pool & shed were in a relatively obtrusive area relative to their pool. He feels that they have moved 1 thing making some accommodations. If they move the pool 8' the other neighbor will be in to create similar objections. He feels that the applicants have made some accommodations, whether its in the right priority to the neighbors, which is their opinion, but he feels that the applicant has accommodated some of their objections. If they plan on plantings around the pool equipments it would not be an issue. The new equipment is quiet and he would approve the application.

Ms. Clark doesn't feel that it is an issue as proposed, but there is the conversation of keeping all of the sheds together. She feels that if the equipment is shielded it would not be noisy.

Mrs. Peterson feels that that the shed in the rear of the property is the best location, even though it needs a variance, which is less obtrusive than coming down Samara and seeing it in the side yard. Mrs. Montgomery said that they planned on putting in additional landscaping. Mrs. Peterson said that this is a very unique lot, and she feels that either way the shed is there. If they move the pool 8' it will be under the neighbor's window, if it can be moved 4' and giving you the ability to keep the shed in the rear that would be her answer.

Mr. Forrester said that they can come and amend their application or the board can vote on the application tonight. Mrs. Peterson suggested that they go into the hall and talk and return to advise the board what they would like to do.

Mrs. Montgomery said that they do have concerns with changing the location without advising their neighbors.

Mr. Fisher reminded the board that there was a family across Samara Drive that was here last month that objected to the pool being moved to the north.

A motion was made by Mr. DeNofa, seconded by Ms. Canonico to recess @ 8:39am in order for the applicants to discuss an amendment to their application. All approved.

Recess 8:39 am to 8:49, all present at roll call.

Mr. & Mrs. Montgomery remained under oath.

Mr. Montgomery explained that they would like to amend their application, even though they really don't want to move the shed into the corner, but they want to offer a compromise.

- move the pool 4' to the north
- move the shed to the corner with the 14' side along the southern property line, and the 12' side will face Samara Drive
- the equipment will be moved to the west side of the shed for maintenance reasons.

Mrs. Peterson feels that moving the pool 4' will move the pool off the side yard setback and not being completely under the windows of the adjacent rear neighbors.

A motion was made by Ms. Canonico, seconded by Mr. DeNofa to open the meeting to the public. All approved.

Mr. William Hesse wants someone to draw in the amendment on a plan.

Mrs. Peterson referred to 0-5 and explained that the shed will remain where it is and the pool equipment will on the west side of the shed, where it is currently located or as far into the corner to attain as much room as possible between the shed and the pool.

A motion was made by Ms. Peterson, seconded by Mr. DeNofa to approve the amended application of Mr. & Mrs. Montgomery for the following variances:

- rear yard set back for shed 5' from the rear property line where 10' is required
- 5' side yard set back where 15' is required.
- side yard set back for the pool equipment of 5'
- side yard set back for the pool of 16' for the pool deck & 19' s/y set back for the pool for the pool
- rear yard set back of 5' for the pool deck & 10' for the pool

Roll Call:

Affirmative: Peterson, DeNofa, Walsh, Stambaugh, Betesh, Fisher

Negative: Canonico

Resolution: 4/1/09.....

Mr. Forrester explained the reasoning why the Walgreens application was moved to the Planning Board, due zone change of the area and it is now a permitted use.

A motion was made by Mr. DeNofa, seconded by Ms. Canonico to adjourn the meeting at 9:20 pm. All approved.