

The meeting was opened by **Ron Palmieri**, Chairman,

Mr. Palmieri read a statement of compliance with the New Jersey Open Public Meetings Law as follows:

This is a regular meeting of the Zoning Board of Adjustment of the Borough of Tinton Falls and is being held in compliance with the New Jersey Open Public Meetings Law. Adequate notice of this meeting has been given by posting on the bulletin board of the Municipal Building and by publishing in the Asbury Park Press and The Coaster.

Mr. Palmieri then led the meeting in a salute to the flag.

Present: Messrs. Palmieri, Slazyk, Lomangino, Battista, & Porzio

Absent: Messrs. Moafi, Rickert, & Roche

Also present: Mr. Hirsch, Board Attorney
Mr. Gotfredsen, Board Secretary

Mr. Palmieri read a statement of procedural guidelines.

DAVID FARMER 87 CHERRY STREET SIDE AND REAR YARD SETBACKS FOR ABOVE GROUND POOL	BA 2008 – 11 BLOCK 12.02 LOT 27
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Mr. David O. Farmer came forward.

Mr. Hirsch advised in reviewing the proof of service, that appeared to be in order. However, in his review of the affidavit of publication, Mr. Hirsch noted the Asbury Park Press left out the last paragraph of the legal notice and therefore Mr. Farmer would have to re-notice in the Asbury Park Press.

There was no one in the audience that was there for Mr. Farmer's application.

Mr. Palmieri advised that the Board would re-schedule the matter for the June 5th meeting.

CRAIG & SHAREEN MULLER 2 DANBURY ROAD TWO REARYARD SETBACKS FOR ABOVE GROUND POOL AS WELL AS POOL IN THE FRONTYARD CARRIED FROM MARCH 20, 2008	BA 2008 – 05 BLOCK 124.43 LOT 4
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Mr. Hirsch advised this is the application we previously accepted and carried to give the applicant a chance to amend the application which they've done.

Mr. Palmieri stated I'm pretty sure both of you are still under oath from the last time you were here.

Mr. & Mrs. Muller advised they are still under oath.

Mr. Palmieri said I think most of the Board members received an updated version of where you'd like to locate the pool and I guess by doing that you change the problems of the pool being in the frontyard situation and now we're basically dealing with the rearyard setbacks. Is that correct.

Mr. & Mrs. Muller received yes, that's correct.

Mr. Slazyk advised he had not heard the previous testimony and did not hear a tape.

Mr. Hirsch advised then you would not be eligible to vote. Okay, because this is not a new application that's been carried. They haven't re-filed an application with new notice so you still have four members. You still have a sufficient number of members available.

Mr. Slazyk asked was there a lot of testimony on this originally.

Mr. Palmieri advised the major thing was where the pool location was.

Mr. Hirsch advised the only difference now is you only have four members now, which is still a quorum but now you'll need three out of four votes because you need a majority. A tie doesn't work.

Mr. Palmieri said I think we should get it on the record. We talked about where the original location of the pool was...because we already spoke about what was on Lot 3 and Lot 5 and how that impacted the application. I guess just go into for the Board where the pool is located now because on the submission, it doesn't have any dimensions of how far from the property line you're going to be...where you would like to put the pool.

Mrs. Muller said the new location for the pool...we have it four feet from the chimney because that was the bare minimum to get past the house with patio tables and chairs and the lawn mower...so we're trying to put it as close to the house as possible which would put it 7 ½ feet from the rear property line.

Mr. Palmieri asked at its closest point from the deck area.

Mrs. Muller replied that was from the water's edge.

Mr. Palmieri said I'm assuming around the whole pool there's no decking. It would just decking at the eastern side of the pool. I'm assuming there's going to be some type of coping that's going to be along the pool. The only reason I'm asking that is because usually on in-ground pools we have three foot sidewalks.

Mrs. Muller stated we haven't gone pool shopping because we didn't want to get our hopes up but I guess the coping around the pool is 6 to 8 inches.

Mr. Palmieri asked then would it be safe to say that the coping around the pool would be 7 feet from the property line just to guess us a good idea.

Mr. Hirsch said well there's one measurement from the water's edge and then there's one measurement from the decking.

Mrs. Muller replied then it would be the deck would be 6 feet from the rear setback because it's an end deck so it would come out a foot from the water on each side.

Mr. Palmieri asked do you have any idea how far it is from the deck to the side property line.

Mrs. Muller replied 13 feet from the deck to the side property line.

Mr. Hirsch asked what's the size of the pool just to make sure the record's clear.

Mrs. Muller replied 15 X 30 above ground.

There were no questions from the Board members.

Mr. Palmieri opened the floor to the public for questions or comments. There were none.

A motion to close the public portion of the Muller hearing was offered by Mr. Battista and seconded by Mr. Lomangino. A voice vote was unanimous.

A motion to approve the revised Muller application was offered by Mr. Battista and seconded by Mr. Porzio.

ROLL CALL

Yes: Messrs. Battista, Porzio, Palmieri & Lomangino

No: None

Not eligible: Mr. Slazyk

GLENN & GERARDINA WORTON
16 COLONIAL DRIVE

BA 2008 – 06
BLOCK 124.03 LOT 1

SIX FOOT FENCE IN FRONT YARD
CARRIED FROM APRIL 3, 2008

Gerardina Worton came forward.

A motion to accept service in the Worton matter was offered by Mr. Battista and seconded by Mr. Lomangino. A voice vote in favor was unanimous.

Mrs. Worton advised we need to replace the existing fence and we want to actually replace it so it's 12 feet from the curb on Liberty. That's all we want to do.

Mr. Palmieri stated and I guess the problem we have is that it's a corner lot and based on our town's ordinances, corner lots have two fronts and two rears...no sides. The fence you want to replace is along Liberty Drive. The existing fence is not in the same area where you want to replace it. Is that correct.

Mrs. Worton replied yes. We want to replace a few feet closer to the curb.

Mr. Palmieri said just so I have an idea, going back to the original fence, it more or less follows the railroad ties on the driveway going back to Lot 2.

Mrs. Worton replied yeah.

Mr. Palmieri asked at its closest point, is the old fence 12 feet to the property line on Liberty.

Mrs. Worton replied no.

Mr. Palmieri asked do you know how far that is. Because obviously the curb to your property line is how far. Do you know.

Mrs. Worton answered I have no idea. Maybe 5 or 6 feet.

Mr. Lomangino said no, it's more than that. I was by there but you want to know how close it is to the back property line, right.

Mr. Hirsch said the front property line.

Mr. Palmieri stated I'm trying to get a starting point. That's the front.

Mr. Hirsch stated on Liberty where the proposed fence is.

Mr. Palmieri said but if they're talking 12 feet to the curb. Forget which side, just say "along Liberty." So the distance, you're saying, from the curb to where you want to have the fence is going to be 12 feet.

Mrs. Worton replied yes.

Mr. Palmieri said then that line in the middle and it says “pin found with cap”...if you’re looking at that drawing right where it says “C4”, that is your property line. So from that line...because usually what we have to do is measure from property lines.

Mrs. Worton said okay, I wasn’t sure if it was from property line or from the curb.

Mr. Palmieri stated we have to measure from property line so you’re looking to put the fence from the property line how far. You’re saying 12 feet from the curb. That’s why I was trying to find out if the curb is 3 feet or 6 feet or 5 feet from your property line. Do you understand what I’m saying.

Mrs. Worton replied yeah, I understand what you’re saying.

Mr. Palmieri said and we kind of don’t have those measurements on there.

Mr. Hirsch asked would you describe the fence that you’re proposing.

Mrs. Worton replied white vinyl, 6 foot.

Mr. Hirsch asked is it a solid fence or does it have openings between it.

Mr. Worton answered right now we decided we were trying to do a solid because there’s a pool there, so we’re trying to do the fence for privacy.

Mr. Palmieri asked is the existing fence solid.

Mr. Lomangino replied it’s board on board.

Mr. Palmieri asked is it 4 foot or 6 foot.

Mrs. Worton replied 6 foot.

Mr. Palmieri said I guess the question when I was looking at your application and we run into this a little bit is the pool being in the frontyard area a little bit...I guess I could ask Mr. Hirsch that...not that they’re in front of the Board for that particular reason. I’m just curious because they followed the original fence, it follows the line of the house going to the rear, towards Lot 2 along Liberty. It sort of came parallel with it.

Mr. Hirsch asked and the point being.

Mr. Palmieri said I’m just trying to figure out the reason why to move the fence all the way out to Liberty as opposed to keeping it in its original spot.

Mr. Hirsch stated I thought you were asking my advice on something. That has nothing to do with the rear yard. This is a frontyard height variance. Type and height are not permitted in the front yard.

Mr. Palmieri asked so was there a variance to put the original fence in.

Mrs. Worton replied we didn't put the fence in. The fence was there when we bought the house.

Mr. Lomangino said yeah, it's been there a while. It's old and...

Mr. Palmieri said well, this was considered pre-existing, non-conforming but taking the fence down totally changes everything.

Mr. Hirsch stated the question that the Board has is...you have the fence there. Let's just assume because we have no other evidence that even if it violates the ordinance, you have a pre-existing, non-conforming right to do that...that this fence may have been put in at a time where it was not permitted. Now it is but it might not have been when it was put in...who knows when. Okay. But now by moving it, you don't have that right. That's why you're here. What the Board is trying to find out is what your reason is...why are you moving the fence. Why don't you maybe put a new fence up but in the same spot so you wouldn't need to come in front of this Board.

Mrs. Worton replied we took down the wood deck so we wanted to give the kids more room to play in the back and the fence is not really squared off. Whoever put up the fence didn't do a good job putting it up so it's not squared off right. When you drive down the street, it's sort of like...

Mr. Palmieri added at an angle. See, we're trying to look for a reason, for a hardship, of why we would allow a fence to be in a front yard. There's got to be more than "it doesn't look good." When I was looking at the original fence, it more or less followed the same angle that the house is on, going straight back. In my mind, if I'm standing on Colonial and I'm looking at your house on Colonial, it's all straight going back. And I understand from Liberty, and that's the problem of a corner lot, it might look a little different, so you already have the pre-existing 6 foot fence...the way I'm looking at it is aesthetically fitting from the front of the house. So I'm trying to look for a reason why we have to move this fence I guess it's closest to the property line along Liberty. I mean I have a whole problem with a 6 foot fence in the front yard in the first place. It's already there. It's in that spot. It hasn't been a problem before. If you were to come here today and say I want to put my pool in this area with a 6 foot fence, I would have a big problem because the application that was just before you was trying to do that and it didn't fly. We actually told them they had to move the whole pool behind the house and deal with it that way.

Mr. Hirsch interrupted saying although you do have to...if this were a pool application...obviously, it's not...but you do have a rather irregular shaped lot. You do have the existing structures lawfully existing thereon in such a way that they're angled. The rear yard, actually side yard, is such that it presents difficulties in terms of putting a pool in or a structure and getting the appropriate setbacks because of the shape of the lot and the manner in which the house is located on there. So, I'm just suggesting that if

someone were to argue this case from scratch, you might be able to...it would be up to the Board in its discretion...but you might be able to justify the location of the pool where it is now because there's really no other reasonable alternative and if you then found there was no real substantial detriment in putting it there, you might find a reason to allow it there. So if you're going to allow it there, it would almost automatically require a fence to be in the front yard for the pool. Now, granted, it could be a 4 foot that met the ordinance requirement because I think the Board of Health only requires 4 feet. So it wouldn't necessarily have to be a 6 foot fence nor would it have to be a fence that's fully closed for privacy...but obviously the other side you're considering is it's a pool and they want some privacy. So I mean I think there's some odd shape to the lot that might require a fence in the front yard. The other fence is not as angled. You might say well, maybe that's not the best of planning, the way the fence was there. I don't know how much it's being moved up. You know if you took that angle. I realize you're taking it and straightening it...is that 3 feet closer than the existing fence, 4 feet closer than the existing fence. I realize in different areas, the measurement is different. So you have some of those arguments. On the other side, you have as the Chairman said, you have a 6 foot solid fence that the ordinance doesn't allow and is that a problem. So there is some oddities about the lot and the location of the house but you have to find your own way now between the positives and negatives.

Mr. Lomangino said, first of all, the fence...I know it's two fronts...but the fence that you're talking about straightening out...starts at the back door of your garage, say...so it's not from the front of the house. It's from the back of the house is where you want to start. Right.

Mrs. Worton replied yeah.

Mr. Lomangino continued right. Now you want to come out square to where the fence meets your property line behind you on Liberty. So at the point at Liberty, you're staying where the fence is, coming up the side of your house, or the front as they call it, as you're proceeding up Liberty towards Colonial. You just want to straighten that out. Instead of going on an angle, you want to keep it straight.

Mr. Palmieri asked and you said the wood deck is going to be removed.

Mrs. Worton replied it has been removed. The shed is gone. The wood deck is gone. It's been gone for years.

Mr. Palmieri said so the only thing left is the above ground pool.

Mr. Slazyk asked how long has the shed been gone.

Mrs. Worton replied the shed has been gone since we moved in. They removed it in 2004.

Mr. Slazyk asked so what's in the corner of the property where the shed was.

Mrs. Worton said there's nothing back there now. There was a rotted shed that she had to remove before we...

Mr. Slazyk asked is there something there now as far as just dirt.

Mrs. Worton said yes, just dirt...because we had a swing set for the kids there but we had to move the swing set over so we haven't really put anything down over there.

Mr. Slazyk stated I have another question. It has a wood deck on the side of the house over by Lot 9.

Mrs. Worton advised that was taken down and there's an addition there. The Township actually has the updated survey but when I came to the Township with my updated survey, there was some stuff missing on it...some coordinates or something that was missing on the bottom. So they took my old survey and that's what they gave to your guys.

Mr. Slazyk asked who built the new addition.

Mrs. Worton replied my husband and...

Mr. Slazyk said you guys built the new addition. You got all the permits for that particular thing.

Mrs. Worton stated everyone came out and did their finals.

Mr. Palmieri asked were you before this Board once before for the addition.

Mrs. Worton replied yeah.

Mr. Palmieri asked how long ago was that. A couple of years ago.

Mrs. Worton said we moved in in 2004 so maybe 2005.

Mr. Slazyk asked and me and him were here.

Mrs. Worton replied yeah. I don't if all you guys were here but definitely some of you guys.

Mr. Lomangino said yeah. She was here.

Mr. Palmieri said Charlie, you've been here that long.

Mr. Palmieri asked so we can get it on the record, along Liberty on Lot 2, would be the house technically to your rear, I guess. That house is facing Liberty.

Mrs. Worton replied no. Well, yeah sort of. The houses are all built strange around there.

Mr. Palmieri said I'm assuming their driveway goes out onto Liberty.

Mrs. Worton replied yeah.

Mr. Palmieri asked do you have any idea how far that house is from your common property line.

Mrs. Worton replied maybe about 22...25 feet.

Mr. Palmieri asked is it also a single story structure.

Mrs. Worton replied yeah.

Mr. Palmieri asked do they have any pools or anything in their backyard.

Mrs. Worton replied I believe they have a pool on the other side.

Mr. Hirsch asked how is that house set back from Liberty. In other words, if you were looking down, standing by your pool or whatever...I mean is it in line with the corner of your house, your pool, is it more forward.

Mrs. Worton asked one more time.

Mr. Palmieri said like if you were looking down the street and you say "I see the front of my pool and I see the front of that house all in a straight line. Is that correct.

Mrs. Worton replied yeah.

Mr. Lomangino stated that's exactly how it is.

Mr. Hirsch asked so if we took the edge of the pool towards Liberty and we drew a line straight down Liberty, that would be essentially the line where the other structure is. That's what you're saying.

Mr. Palmieri said the biggest thing I'm wrestling with, especially like in that neighborhood also, there's quite a few corner lots. With the idea of 6 foot fences being in the front yard, I'm having a real tough time with saying let's push it all the way, you know, that close. I know you're saying it's 12 feet from the curb but we have to deal with property lines. And in my mind, I don't want to start a precedent where we're going to have 6 foot fences in front yards. Even though I agree, yes, you do have an irregular shaped piece of property...the pool's in a situation where it's kind of behind the house which is the same situation that we had on the last application...and you already do have a 6 foot existing fence which was there pre-ordinance. The Zoning Officer didn't address

it. I'm just having a little trouble coming up with reasons to say "yeah, let's move the whole fence out towards Liberty and have that structure that much closer to the road, 12 feet from the street. I don't know how some of the other Board members feel about that.

Mr. Lomangino asked how many feet, at the widest point, which would be closest to your house, to straighten that fence out, how many feet are you pushing it out towards Liberty from where it is now.

Mrs. Worton replied about another section.

Mr. Lomangino said about 6 feet. Right.

Mr. Hirsch asked what is the length of the proposed fence unless somebody just asked that.

Mr. Lomangino stated along Liberty.

Mrs. Worton said it's the same that's there now. I think maybe another 8 foot or 6 foot panel.

Mr. Lomangino stated lengthwise it's pretty much the same. Widthwise...lengthwise it's about 35 foot in length and then it will be 6 to 8 feet closer to Liberty at the widest point than what it is now.

Mr. Palmieri said yeah, 35 feet. That's actually a pretty good guess. Actually by the angle of the fence currently, it lessens the impact, I think, of it being that far out into the front yard. I understand why they went to the corner and they angled it in, it would probably lessen the impact. Do any other Board members have any thoughts.

Mr. Lomangino stated instead of going with a solid white plastic fence, maybe a slated or a 4 foot with the lattice on top. Something like that.

Mr. Palmieri said if she goes with an open fence, it think it won't be an issue.

Mr. Hirsch stated that does away with potentially one of the issues. If it's going to be solid, then you're dealing with a different kind of variance. So would the Board rather see some other kind of fence there. I mean what does the Board want to do.

Mr. Palmieri said I understand you have the existing 6 foot fence where it is. I'm kind of in favor of seeing it in the same spot.

Mrs. Worton asked can I straighten it out a little. It's crooked. If I keep it exactly where it is, it's not a straight fence.

Mr. Palmieri asked so you're saying instead of being 12 feet from the curb, being a different distance from the curb.

Mrs. Worton said I don't even have to put it 12 feet from the curb at that point. If I could just straighten it out a little bit then because I'm going to have to move it a couple more feet in order to be able to still straighten it out.

Mr. Palmieri asked when you mean straighten it, straighten it so it's parallel with Liberty.

Mr. Battista asked are you saying, for example, if you look at the new fence running parallel with Liberty, instead of being 12 feet, maybe pulling it in a little closer to your house...at least having it straight.

Mrs. Worton said the whole purpose of it was to actually have more room for the kids to play.

Mr. Battista stated understood.

Mr. Slazyk said let me ask the question though, I mean your house is already on a slant on the lot. The house is almost actually turned a little bit.

Mrs. Worton replied my house is almost straight on Colonial.

Mr. Slazyk stated based on the lot, where the lot is, you're straight on Colonial but what you want to do is you want to put a straight fence on Liberty...not really a straight fence the house is. So now what you're going to do is where you have a straight fence in your back yard, based on Colonial Drive, you want to run the same straight on Liberty Drive. So really you're going to have a fence that's on an angle. If you look at your house from up above, you're actually putting that fence on an angle now.

Mrs. Worton said but what I'm still trying to do is get the room for the kids to play so then if I have to put it back on an angle. If I'm able to move it up a little bit more and still keep it on an angle then.

Mr. Battista asked so when you say "move it out", are you saying move it a little bit more.

Mrs. Worton replied what we were trying to do is move the fence a couple more feet so we can have more room for the kids to play in the area around the pool.

Mr. Palmieri said in front of the pool. The area between the house and the pool as opposed to having more open space in the back rear corner by Lot 2.

Mrs. Worton stated yeah, that's what I'm talking about because usually when the kids are outside, they're outside by the driveway and then go into the back yard.

Mr. Palmieri said because we don't have the measurements, I'd like to ask the measurements from...

Mr. Slazyk asked did you put the pool up.

Mrs. Worton replied no, the pool was there when we purchased the home.

Mr. Palmieri said so I guess the little bit of a problem I'm having is because we don't have the measurements. You're saying "12 feet from the curb" because we're always used to working from property lines. So we're saying is the fence the way you're proposing it, will be 6 feet from the property line and then you're saying "I'd still like to get it straight." I don't want to go ahead and use measurements without you being comfortable and knowing what these measurements are. Unless you want to go ahead and say "yes, I'm comfortable with us coming up with"...because I can understand you want to square it off for the pool area itself forgetting about which way the house is turned. You just want a square area around the pool that you can have the kids playing in.

Mrs. Worton replied yeah.

Mr. Palmieri continued saying my issue is that the fence is too close to the curb, the street, the property line and it's a 6 foot fence. So if there's an area in between where it's pre-existing and where you want it and it's straight along Liberty, obviously there would be some distance given up in the far corner and some gained along the area closer to the house.

Mrs. Worton replied yes.

Mr. Palmieri said so the question is...

Mr. Hirsch asked can I clarify one thing also about this drawing. Your new fence, where you have it on your survey, it looks like it's running to your rear property line.

Mrs. Worton replied yes.

Mr. Hirsch asked well, do you intend to then install new fence along your rear property line also.

Mrs. Worton replied yes.

Mr. Hirsch said okay. I don't know whether that was clear on the record, whether that was going to tie into existing. You're going to put a new fence...where it says "new fence" and then you're going to put new fence all the way along the rear of your property line.

Mrs. Worton replied yes.

Mr. Hirsch stated you see the problem. The fence along the rear property line to a point is also in the front yard. It's not just this. This fence is in the front yard.

Mr. Palmieri said because we have to go straight back from the edge of the house. Well, I asked that question from Doug before. If you follow the edge of the house along Liberty as a straight angle...you're correct. This one section of the fence that's to the rear is technically in the front yard too. And actually there's a little portion of the pool that's still in the front yard too but it's such a minor piece, I'm not that concerned with it.

Mr. Slazyk stated I think the stone is in the front yard. Did you put the stone in.

Mrs. Worton replied no. Everything was there when we purchased.

Mr. Battista asked the existing fence is wooden and I guess rotted.

Mrs. Worton replied yes. It's an eyesore to the neighbors. The neighbors say it was put up in the 90s.

Mr. Palmieri asked do you know when the house was built.

Mrs. Worton replied 1985, '86.

Mr. Palmieri said then that might be pre-existing. The one issue...I see how you have the fence...I don't know how the other Board members feel...if there's something between putting it straight by your definition of straight.

Mr. Slazyk stated let me explain the problem. If we go ahead and approve this application...okay...now we have questions about this application and even the previous application...but if we go ahead and accept this application...if we take a site view and look at a map, you're going to find 5 or 6 other neighbors coming in front of us going "well, how did they get that fence". Now they're going to come in front of us. Not only that, now you're going to get on Heritage...all these fences...that once they move half a fence, they can't...they got to move back another 10 feet. And not only that but then you're going to get Swimming River Road. The problem is if we look at allowing you to do this, it's going to be a potential problem not just for this area but every place in town. Let's put it this way. If I sat here on the Planning Board 10 or 15 years ago, I wouldn't have allowed this to be built the way it was built. I mean this is crazy but we have these conditions. You have a situation where you could probably put this fence in the pre-existing place and I think there's a couple of us on this Board that are leaning...like it's very difficult to approve this fence. We've knocked down a lot of fences before in front yards. You want a 6 foot fence. You don't even want a 4 foot fence. You know what I'm saying. It makes it very difficult and it's not just because it's your fence, it's the other 20 fences that will come in front of us.

Mr. Hirsch said really, though, it would be related to corner lots because the other lots wouldn't have any justification at all. They wouldn't have a pool in the front yard. Do you follow me. They'd have regular square lots where things would be in the back yard but yes, it's a precedent in a corner lot...but not necessarily every house down the block. The existing fence in the rear, that's a solid 6 foot fence also.

Mrs. Worton replied the existing fence, yes.

Mr. Hirsch stated alright, then in a sense, they already have that pre-existing, non-conforming right. Do you follow me assuming that it was put up legally.

Mr. Slazyk said yeah but how do you know.

Mr. Hirsch stated that's up to you whether you want to do research or not. I'm taking what I see and there's nobody citing a violation. That's all I'm going by.

Mr. Battista asked the fence that you're going to be building, the existing fence that follows the back, it looks like it's not running exactly perpendicular with the property line. Are you going to sort of even that out or is that going to be in the exact same place it is now.

Mrs. Worton replied no. We're actually moving the fence right on top of the property line in the back.

Mr. Palmieri said I don't know that you're allowed to do that.

Mr. Battista stated I think you need to be 6 inches but here's the reason I ask...because what I think here is from an aesthetic point of view...clearly if they can get more toward the property line, why wouldn't you try to maximize that back fence. Right. But then you'd want to square that and I think what she's looking to do here is really square that. I'm not saying that's neither right or wrong. I see that piece and then the question then becomes if you had the option, and I'm just throwing this out, if you had the option between keeping it square but pulling it closer, in other words instead of being 12 feet, let's say you pull it in another 3 or 4 feet, you can either do it that way or take the existing fence...let's just say the existing angle and let's just say for argument's sake, pushing that out at the same angle...you have the choice between going 4 feet out at that angle...you can do that but which one...is there any preference or you're just looking for the space.

Mrs. Worton replied I'm just looking for the space.

Mr. Palmieri said I keep going back and even if we go forward with this, we're going to say "the fence will be located no closer than" how far. Do you know what I'm saying. It's from the property line. I know you have a curb here but they've got to measure from the property line when they do the fencing...so it's no closer to the property line...and I don't make an assumption of how far it is because obviously if the Board felt inclined to go forward and approve...I'm not saying that they will...and we give a measurement and it's not what you wanted. You need to go, in my mind at least, and measure what straight is from the property line or something...the difference between the corner being at the rear and the corner being at the front.

Mr. Battista stated if you do actually go more parallel with the existing fence and the property line, you're going to get...it's probably not going to be a whole heck of a lot more room but you will get a couple of feet there...and then if you were to pull it in, like I said, still going off of Liberty...

Mr. Palmieri said just make it parallel to Liberty...if I'm understanding you...parallel to Liberty and not 12 feet from the curb. Come someplace in.

Mr. Hirsch asked would you like to come up for a second.

Mr. Palmieri said we need exact measurements.

Mr. Hirsch stated nobody's got an exact measurement but everybody has got the idea of what we're trying to show you. See, here's your existing...on the angle. Here's your proposed. They're saying come in straight but instead of being that close, come back a little back. So you're getting some more room. You're squaring it off but whatever that would be...2 feet or 3 feet. The Board wants to verify from your survey how far is that to your property line. I mean what is that measurement and I think what the Board members are considering is they're a little concerned about the proximity of this to your front property line but maybe if you pull it back a few feet...because somebody said...Charlie I think...that the new fence was .6 feet further from this angled fence. So maybe instead of 6 feet, it ends up 3 feet at its furthest point. Do ;you follow me.

Mrs. Worton replied yes. Square it up as much as I can without getting any further. Either that or come in with a shorter fence that's open. Then maybe you can actually go up further because the Ordinance allows open. So you've got to play with your options.

Mr. Palmieri said was my feeling was just like Mr. Hirsch was saying, I was taking the distance between the closest point to the curb...I'm using the curb because that's the easiest way you can measure it...and the furthest point from the curb and the middle point there being the cut-off. It squares it off the way you want and it opens the front part where you're saying the deck no longer is...because I understand the fence was originally there...to me I'm getting half back over here and I'm giving away...not that I'm giving it but the Board...it's more of a compromise.

Mrs. Worton stated I have to figure out the right way to do it.

Mr. Lomangino said that and look at the different types of plastic fences that they're offering now. Like I said I know when I was suggesting the 4 foot with the 2 foot lattice on top. It doesn't sound right but I've seen some of those plastic fences around that are like that.

Mr. Palmieri stated but it's still over 4 foot so she still needs the variance for that.

Mr. Lomangino said I know but across the back you could have it solid, the way you want, and then just that little section along Liberty, you have a different type.

Mr. Palmieri stated but she still has an issue with that type of fence. It's over the 4 foot height so it defeats the purpose. Like Mr. Hirsch said, if you had a 50 percent open fence that was 4 feet, the town ordinance allows you to go right up front. And some people do that and they plant shrubs to hide everything...but what we're going to do now is I need you to take exact measurements to explain to the Board because without measurements and actual distances from a property line, we have nothing to put on the record. That being said, what we would do at this point is give you a chance to go back, measure, re-calculate and draw something on the plan, and come back in front of the Board and say this is my new idea.

Mr. Hirsch said well, amend it. It's not a new...you don't have to start over. You don't have to re-notice. You don't have to file a new application. Basically it's an amended application.

The Board agreed to carry the Worton application to June 19, 2008.

A motion to adopt the resolution in the matter of Winding Brook School was offered by Mr. Battista and seconded by Mr. Porzio. Mr. Palmieri was not eligible to vote. A voice vote in favor was unanimous.

A motion to adopt the resolution in the matter of Monmouth Memorial Park Cemetary was offered by Mr. Lomangino and seconded by Mr. Porzio. Mr. Palmieri was not eligible to vote. A voice vote in favor was unanimous

A motion to adopt the resolution in the matter of Mary Searight was offered by Mr. Lomangino and seconded by Mr. Palmieri. A voice vote in favor was unanimous.

A motion to adopt the resolution in the matter of Jeffrey Todd was offered by Mr. Lomangino and seconded by Mr. Battista. A voice vote in favor was unanimous.

A motion to adjourn the meeting was offered by Mr. Battista and seconded unanimously.

Respectfully submitted,

Doug Gotfredsen
Board Secretary