

The meeting was opened by Chairman Battista at 7:30 p.m.

Chairman Battista 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 The Coaster and the Asbury Park Press.*

Chairman Battista then led the meeting in a salute to the flag.

Ms. Connolly took roll call.

Present            Chairman Battista, Mr. Lomangino, Mr. Slazyk, Mr. Porzio, Mr. McKinley, Ms. Hatami, Ms. Berk, Mr. Kuzmin,

Absent:            Vice-Chairman Palmieri

Also present:    Ronald Troppoli, Esq. for Mr. Hirsch  
                     Mr. Neff, Board Engineer  
                     Ms. Connolly, Board Secretary

Chairman Battista read a statement of procedural guidelines.

### **Minutes**

Chairman Battista states that the minutes from March 7, 2019 have been previously distributed via email for the Board members to review.

Motion is made by Mr. Porzio and seconded by Mr. McKinley to accept the minutes of March 7, 2019. All in favor by those members eligible to vote.

### **New Business**

**BA 2019-01 Adam Hays and Stephanie Fornino, 30 Danbury Road, Blk. 124.43 lot 12. Front yard setback (dual frontage)**

Mr. Troppoli swears in the applicants, Adam Hays and Stephanie Fornino, residing at 30 Danbury Road, Tinton Falls.

Mr. Troppoli states that he has reviewed the proofs of service and publication, which is in order and recommends that the Board accept jurisdiction in this matter.

Motion is made by Mr. Porzio and seconded by Mr. McKinley to accept service of this application. All in favor.

Chairman Battista asks what relief the applicants are seeking. Mr. Hays states that their wood fence is in disrepair and their backyard faces Heritage Blvd., which makes it a reverse frontage lot. Their permit application was denied because of the reverse frontage. The applicants wish to get a fence permit in order to replace the existing fence.

Chairman Battista asks the applicant where they are proposing to install the new fence. Mr. Hays states they are requesting to put in a new vinyl fence in exactly the same location.

Mr. Neff reviews for the Board that this is a dual-frontage property. In most cases, on a front yard, a fence can only be a maximum of four feet high and is required to be 50% open. In this case, the applicant has two front yards technically. There are many cases of the fencing being too close to the road on Heritage. The ordinance says that a six foot fence is allowed in the front yard but it has to be set back 25 feet from the right-of-way line and it has to have an evergreen buffer in front of it. Many of these fences have been put in without prior approval. If this fence is replaced in the exact same location, based upon the survey, it would be approximately two and a half feet at the closest location from the property line. This is why a variance is needed. The Borough Planner and Zoning Officer have been working on ordinance revisions for this area. There may be some modifications where the 25 ft. requirement will become a five foot setback with a small evergreen buffer in front of it facing Heritage Blvd.

Mr. Kuzmin asks Mr. Neff if that his recommendation. Mr. Neff confirms that his recommendation is to have this fence set back five feet. The long-term goal is to have the fences along Heritage Blvd. set back five feet uniformly with a landscape buffer.

Mr. Hays states that he wanted their fence to stay in alignment with the neighbors' fences. There will not be enough room for an evergreen buffer. If we were to move the fence back five feet back, we have pine trees that exist that would have to be removed at considerable expense.

Ms. Hatami asks if the applicant can somehow place the fence behind the existing evergreens thus using the existing evergreens as the buffer. Having some greenery to buffer the starkness of the fence is a priority.

Mr. Hays submits copies of pictures to Mr. Troppoli to be marked as evidence. Mr. Hays states that he personally took the pictures yesterday. Mr. Troppoli marks same into evidence.

- A-1 plot plan of the lot with the proposed fence and gates.
- A-2 two pictures of the block patio
- A-3 two pictures of the right side fence from backyard
- A-4 two pictures showing a leaning pine tree nearest to the fence and the left side of the backyard
- A-5 picture of the left side fence and showing where the shed used to be
- A-6 a view of the left side of the house where the vinyl fence and gate will be and a view of the right-side house and walkway leading to patio.

Mr. Kuzmin asks if the applicant planted these trees or were they already planted when they bought the residence. Mr. Hays states that the trees in question came with the house.

Mr. Lomangino reviews the location of this property.

Chairman Battista reviews the copies of the photos with the applicant. He notes that most of one side of the fence is totally down. Mr. Hays states that it was blown down in a storm.

Mr. Hays states that he hired Carl's Fencing in Toms River to replace the wood fence with a more durable 6 ft. white vinyl fence with a gate installed on the Heritage side to allow for access to take care of the landscaping.

Mr. Kuzmin asks about the shed that is in the photo. Mr. Hays states that the shed was taken down when they first moved in because it was in disrepair.

It is discussed that there is one tree in particular that is preventing the fence from being placed five feet from the sidewalk. Mr. Hays states that this tree is healthy but it is leaning towards Heritage Blvd. The applicant does not wish to incur the expense of having this tree removed.

Several alternatives are discussed.

There is discussion regarding the plantings that can be utilized bordering the fence in order to soften the brightness of the white vinyl fence. There would be about 2 ½ feet of space between the sidewalk and the fence if it is in the same location. The alternative is to remove the tree and then install the fence five feet from the sidewalk. Another alternative would be to box out the one tree that is causing the problem.

Ms. Hatami cautions about the plantings encroaching on the sidewalk.

Chairman Battista reviews that the applicant bought the residence with the current fence in place as it is now and had received a Certificate of Occupancy. There was no issue when the applicant purchased the house.

Mr. Slazyk recommends cutting the offending leaning tree down and angle the fence near the clusters of trees near the corners, that would almost give you the five feet. He also recommends possibly coming back for another hearing.

Mr. Kuzmin reviews the application and states that he is not in favor of forcing the homeowners to remove the tree.

Mr. Neff reviews the possibility of putting the fence in back of the offending tree. The homeowners are against that option.

Mr. Troppoli states that there seems to be a difference of opinion among the Board members. He states that this is a quasi-judicial board. It's a give and take. There will be expenses incurred by the applicant should the hearing continue to a future date. Mr. Troppoli suggests taking a moment to think about either moving the tree or removing the tree or possibly constructing the fence five feet from the sidewalk which would put it behind the tree in question.

Chairman Battista states that we will be off the record for ten minutes from 8:10 to 8:20 p.m.

Mr. Troppoli states that after discussion, the applicants state that they have listened to the Board and the Board engineer and they are willing to make a concession to remove the wayward tree and agree to create a planting bed, which they will maintain, and to work with the Board Engineer for planting suggestions.

Chairman Battista asks if there are any public in attendance that have any questions at this time. None heard.

Chairman Battista asks if there are any public in attendance that have any statements at this time. None heard.

William Minue, 38 Danbury Road states that he is a close-proximity neighbor to the applicant. He is in a similar situation with a fence bordering Heritage Blvd. with a planting bed that he maintains. He has spent hundreds of dollars replacing the plantings numerous times. The people/kids that bicycle or walk along the sidewalk vandalize and kill the plantings/ shrubs that are planted in these beds. Mr. Minue thinks the Borough should reconsider requiring homeowners to install and maintain these planting beds because of this reason. Various Board members express empathy with regard to Mr. Minue's plight but it is not something the Board can address or change. Mr. Minue is advised to address the Borough Council if he wishes to try and affect change.

Mr. Troppoli speaks as to Mr. Minue's complaints and states that it is outside of the Board's jurisdiction. Mr. Troppoli directs him to the police if there is a trash problem, vandalism or speeding automobiles.

Chairman Battista asks for a motion to close the public portion. Motion is made by Mr. Porzio and seconded by Mr. Lomangino. All in favor.

Chairman Battista asks the applicants if they have anything to add. The applicants thank the Board for their time.

Chairman Battista asks for a motion. Mr. Troppoli states that the motion, with conditions, would be to remove the one pine tree, which is leaning, prior to installing a fence set back from the sidewalk approximately five feet. The applicants agree to install a planting bed, subject to the Board engineer's approval, facing Heritage Blvd. for screening purposes. The fence proposed is a 6 ft. white vinyl fence on the reverse frontage lot. Permits would be obtained for tree removal and fence installation.

Motion is made to approve, with conditions as discussed, by Mr. Slazyk, seconded by Mr. Porzio.

Ayes: Mr. Slazyk, Mr. Porzio, Chairman Battista, Mr. Lomangino, Mr. McKinley, Ms. Hatami, Ms. Perk, Mr. Kuzmin

Nays: None

Absent: Mr. Palmieri

### **Resolution Adopting 2019 Annual Report**

The 2018 Annual Report has been prepared by Mr. Hirsch. It has been forwarded via email to all Board members prior to this evening's meeting.

Motion is made by Mr. Slazyk and seconded by Mr. McKinley to accept the 2018 Annual Report. All in favor by those eligible to vote.

### **Motion to Close**

Motion to close the meeting at 8:46 p.m. by Mr. Porzio and seconded by Mr. Lomangino. All in favor All in favor.

Respectfully submitted,

Colleen Connolly  
Zoning Board Secretary

Approved at Board of Adjustment  
Meeting on June 6, 2019