

Borough of Pine Hill
Meeting
Planning and Zoning Board of Adjustments
March 10, 2016

- Call to order:** **Call to Order by Mr. Felix James 7:47pm**
- Pledge of the Flag:** **Led by Mr. Waddington**
- Sunshine Law:** This is a regularly scheduled meeting of the Pine Hill Planning and Zoning Board. This meeting has been duly advertised and is in full compliance with the Sunshine Law.
- Roll Call:** **Present:** Mr. Waddington, Mr. Castor, Mr. Ford, Mayor Green, Councilman Robb, Mrs. Ciotto, Mr. Greer
Absent: Mr. James, Mrs. Bruno Mr. Hagy
Professionals: Solicitor: Mr. Sitzler, Engineer: Mr. Dougherty
- Correspondence:** **Mr. Waddington:** Correspondence you have in your packet the New Jersey Planning Officials Member Card
- Approval of Minutes:** **Mr. Waddington:** At this time if you had a chance to read your minutes; can I have a motion to approve the minutes?
Motion made by Mr. Castor and seconded by Mr. Ford.
Roll Call: All "aye" Motion Carried
- Resolution 2016-8:** **Mr. Waddington:** The first thing we have on the agenda tonight is Resolution 2016-8: Resolution granting a one year extension to complete the building 3 and downsize the length of the building 45 feet from final site plan for phase II for property located at 115 Berlin-Cross Keys Road that was approved August 13,2009. Do I have a motion to approve the resolution?
- Mayor Green:** Motion to approve
- Mr. Waddington:** Do I have a second
- Mr. Ford:** Second

Mr. Waddington: Roll Call; “aye” Mr. Waddington, Mr. Ford, Mayor Green, Councilman Robb, Mrs. Ciotto, Mr. Greer “abstain” Mr. Castor Motion Carried

Application 2016-2:

Mr. Waddington: next is application 2016-2 Mr. and Mrs. Stanton for a bulk Variance for a fence at 1507 Pine Street

At this time 7:50pm Mayor Green and Councilman Robb are excused since this is a zoning matter.

Mr. Waddington: Mr. and Mrs. Stanton you may approach

Mr. Sitzler: Do you anticipate Mr. and Mrs. Stanton will you both be testifying?

Mrs. Stanton: yes

Mr. Sitzler: Please raise your right hand and be sworn in; both were sworn in to give testimony

Mrs. Stanton: We basically received a violation for our fence and we are proposing a variance: I would like to use this sketch to show what we are trying to do. We are actually trying to do a sight triangle to be in compliance

Mr. Dougherty: Mister Chairman if I could I did do a letter dated March 3rd, 2016 which you should have there and in the completeness review. I reviewed the application for completeness and under completeness they submitted a survey and you can see items 1 thru 4 were complete but in item 5 they did not provide a sketch plan that they referred to that was something in our check list to basically to delineate what the variances are because the fence is existing there are a number of variances that are required for the board to understand what is going on out there. It is a corner lot with two front yards so it kicks into another little series of setbacks so I had asked for a sketch of some sort just to show what the variances are and to enumerate the variances, but with that submitted tonight the application can be deemed complete and we can proceed with the hearing portion of it since the other portions are not applicable. So with the sketch we can proceed. Do you have copies of the sketch?

Mrs. Stanton: I do but I did not make enough copies, I'm Sorry

Mr. Dougherty: Okay; so Mr. Chairman if you take that and mark it

Mr. Sitzler: We will mark that as A1

“Mr. Gallagher exits room to make copies”

Mrs. Stanton: I only have 4

Mr. Sitzler: Mrs. Stanton what is it that you are trying to show?

Mrs. Stanton: basically that it is a corner property and trying to show a sight triangle which would make the property in compliance; because according to the guide lines it has to be set back 100 feet from the common intersection

Mr. Stanton: Center

Mrs. Stanton: Center intersection

“Mr. Gallagher returns with copies”

Mr. Dougherty: Now that we have the sketch for the rest of the board to take a look at

Mrs. Stanton: What we are trying to do is push it back 25 feet I believe it will have to be setback so it will give us sight

Mr. Waddington: So the fence is up there now and you are talking about moving it back to make a triangle

Mrs. Stanton: they call it a sight triangle

Mr. Dougherty: so the sketch does not quite represent the house

Mr. Stanton: Right it is not exact

Mrs. Stanton: Right we are going to set it back the problem is the height with our dogs it is a safety issue that we have our dogs are 27” and the law is 30”

Mr. Dougherty: so with that sketch I would say we can deem the application complete, but I would have to look at that it does not quite represent the property

Mr. Stanton: No

Mr. Dougherty: The house and the way it sits and stuff like that. I would have to verify because there is a provision in the ordinance and I did not bring it tonight so I will have to get back to you. It basically

Mr. Castor: It looks like the fence is right up against the sidewalk

Mr. Dougherty: It is; so to deem the application complete we would acknowledge that sketch say the application is complete. Then we would hear testimony on the reason for the variances and things like

that, because there are some other issues. So we would go through the variances, I did not know if you had an opportunity to go through all the variances. There are height variances, distance variances and also front lawn variances. Like Mr. Castor brought up technically that fence along the sidewalk is in a front yard because you have two front yards on a corner lot. It's a variance for a fence in a front yard because that fence along Turnerville Roadside because that is technically a front yard since it is a corner lot.

Mr. Stanton: When we moved in twenty (20) years ago it was the same so we replaced the fence with the same type fence

Mrs. Stanton: The Fence has been there since 87

Mr. Sitzler: Mr. and Mrs. Stanton when you replaced the fence you replaced it in exactly the same spot

Mr. Stanton: Yes

Mr. Sitzler: And you are saying the prior fence had been there how long

Mrs. Stanton: since 87

Mr. Sitzler: and how long have you lived on the property

Mr. Stanton: 20 Years March 29th

Mr. Sitzler: So it has been 20 years and it was preexisting when you bought it

Mr. Stanton: Yes

Mr. Sitzler: And it is the same height

Mr. Stanton: Yes, we were just trying to make it look good it was starting to fall apart and we added boards

Mrs. Stanton: One of our neighbors was actually walking their dog after the Sandy Storm and fence was starting to give way when our dog jumped at the fence and her husband actually came and boarded the fence up so it would not fall down. So the fence was falling down

Mr. Castor: am I right or am I wrong if you replace a fence that is there it have to be compliant with the current law?

Mr. Sitzler: Yes the law is you can repair a damaged fence but when you tear it down and replace it with new you are now losing your nonconforming status and you have to comply with the current law.

Mr. Stanton: Unfortunately I did call before I did it about a year ago and was told for exact same I do not need a permit.

Mr. Castor: The problem is it is up to the home owner to meet the standards, is that correct

Mr. Sitzler: Yes it is; you have the obligation to make sure it is legal what you are trying to do, and the point of getting a building permit is that brings closer scrutiny to what you are trying to do and probably would have triggered not putting the fence

Mr. Stanton: With my two dogs

Mr. Sitzler: You might have repaired instead

Mr. Castor: You would have replaced a piece at a time

Mr. Sitzler: You are allowed to repair in sections as long as you don't tear everything down and put a whole new one up

Mrs. Stanton: It was such an eye sore

Mr. Sitzler: Understood

Mr. Waddington: Did you replace everything

Mr. Stanton: Yes; post and fence. That road there; Turnerville Road is a lot heavy traffic especially at rush hour and the back of our house at one point is only about 15 feet from the actual road so there is a lot of noise and it is very unsafe there

Mr. Castor: Won't that block sight looking down the road?

Mr. Dougherty: Well that is one of the issues; in my letter what we did there are a number of variances and this is what we are trying to get from the sketch so if you look on page 2 fences, hedges and walls cannot project past the front wall of the building or the side wall of a corner building, so in essence the fence along Turnerville Road that actually needs a variance because it is in a front yard. The fence is not supposed to project past the front yard so even the fence along Pine Street that is a front yard. See where it says here wood fence 4 feet high that needs a variance to exist there. Then that fence all the way down since the property lien goes from the back corner of the house out to Turnerville Road that is where the fence would actually start if you can follow that so it would be a truly fenced in back yard and that is what the variance would be. So that would be the variance the 4ft fence in the front yard and that would also be a height variance because in the front yard it is only supposed to be 30 inches. So it would be a variance for a fence in front of the house on Pine Street and a variance for a fence in front of the house on Turnerville Road then it would be a height variance of 4ft instead of 30 inches because that is what is required in the front yard and the same with Turnerville for 6ft and it is supposed to 30 inches so that would be another variance and then

Mrs. Stanton: would that be just from the 100 feet

Mr. Dougherty: Sorry in the case of fences a front yard fence shall not exceed 36 inches except on corner lots where in shall not be more than 30 inches these specifications shall be applicable for a distance of 100ft from the center line. So you would get a variance for 100ft of the fence

Mrs. Stanton: Okay we are trying to do a sight triangle that should take care of that

Mr. Dougherty: Joe; that should take care of your question, if you do sit on Pine Street in fact the old fence was there and I had done a goggle earth and a photograph is there

Mr. Castor: I saw that

Mr. Dougherty: So that did obstruct the view down Turnerville Road so if they would cut a piece of that off in other words put it at an angle, but I would have to verify that there is no routine 100ft but there is something called a sight triangle but it has to do with the speed of the cars on Turnerville so I would just have to verify it may even farther back than you show so I'm not sure where that cutoff will be. If the board will want range variances I can work with the applicant to come up with distances. The fence itself that is in the right away is actually on Turnerville Road and I'm not sure we can grant a variance for that

Mr. Castor: It's a County Road

Mr. Dougherty: Yes it's a County Road

Mr. Castor: it's in the county right of way

Mr. Dougherty: and it can't be there

Mr. Castor: No it can't be there

Mr. Dougherty: It would have to be moved out of the county right of way

Mr. Castor: It would have to be moved back

Mr. Dougherty: It looks like it is about 2 ½ft in the Camden County right of way so that would have to be moved out of the county right of way

Mr. Sitzler: Just so you folks know we do not have jurisdiction over the county right of way we could not legally make you move it

Mrs. Stanton: So it has to be moved back how many feet

Mr. Dougherty: From your survey it is about 2 1/2ft and that would put you right on the line of the county right of way basically you are 2 1/2ft into the county right of way. If you move it back 2 1/2ft you will be right on the county right of way

Mr. Waddington: So if I understand correctly since Turnerville Road is a County Road they need to move the fence back 2 1/2ft and the variance for that it is really only supposed to be 30 inches high

Mr. Sitzler: Correct

Mr. Waddington: they actually need a variance for the height but they have to move it no matter what

Mr. Castor: No matter what

Mr. Waddington: Out of the county right of way

Mr. Sitzler: Yes, we can't grant a variance for a county right of way

Mrs. Stanton: So can we ask the County for a variance

Mr. Castor: They won't give it to you; been there done that

Mr. Stanton: I wish we kept the old fence

Mr. Sitzler: Speaking with years of experience you are very fortunate that there was not a very bad accident on your corner where someone claimed that they could not see the car because of your fence because you would have been a part of that litigation not to scare you are anything but just to point that out.

Mrs. Stanton: I understand

Mr. Castor: Just to say to you; I've had this happen to be by the way I've owned 6 tow trucks at one time. We got involved in an accident and we got hit and they wanted me to take 5% of the responsibility and I refused because there were kids in the car. If there are kids in the car and say they are 4 years old you are responsible until they are of age if they can prove anything that happened to them as a result of that accident. You're a lawyer am I correct?

Mr. Sitzler: I'm not familiar with the exact circumstances

Mr. Castor: but you know what I mean if you take 5% of the fault you own it till the kids get of age

Mr. Sitzler: Yes, children have a right and long time to sew you bur seriously though

Mrs. Stanton: We have a safety issue and that is something we are trying to do something about

Mr. Sitzler: Yes and that is why you are here to try to get the gravity of the situation

Mr. Dougherty: The reasons for having it is in order to grant the variances this board would have to now the need of the fence and the ordinances that are specific to the site. So some of the reasons you had mentioned the height of the dogs where there other needs

Mrs. Stanton: Safety, my husband works shift work so I'm there at night alone so I need a fenced in area when I'm out walking around. You can watch TV from the street into my house and that is an issue. People walking their dogs around our neighborhood all the time it is a way to control that

Mr. Stanton: Noise from all the traffic

Mrs. Stanton: pollution coming into the yard

Mr. Dougherty: so it is fence that is at the higher level the 6ft to block the noise and that kind of thing

Mr. Stanton: and safety we have two dogs that are like 28inches high, if that was a 30inch fence they would just walk over the fence

Mr. Dougherty: I know the sketch you submitted shows a more regular shape house but the way your house is situated on the lot if you were to follow the ordinance you would have a fence. Again if you look on that survey that you submitted where it says lot 8 plan and lot 7 plan right next to each other those would be the back yard so if you just follow those lines around where it says wood fence over to the right there that is the back part of the fence line. Right there by the wood deck where it says lot 8 plan and lot 7 plan that would be the area that would be fenced if you followed the ordinance to the tee. So what they are basically asking for is a variance for fence that shows lot 9 plan and lot 10plan and possibly lot 11

Mr. Sitzler: If I understand correctly with the exception that along Turnerville Road would that not have to go back 2 1/2ft

Mr. Dougherty: That is correct

Mr. Sitzler: and the variance would be the height

Mr. Dougherty: yes because in all cases it is supposed to be 30inches and in one area it is 40inches where it crosses lot 9 there. We are looking at the survey.

Mr. Dougherty: If the board would approve the variances I can work with the applicant to verify what the sight triangle would be for that portion. Right now I do believe it is an obstruction for the traffic

Mrs. Stanton: Right and we are not disputing that, we understand that

Mr. Sitzler: Looking at your survey at the dotted line between lot 11 and lot 10 that might be the general area where you can put the fence you see 10 and 11 that goes right to the corner.

Mrs. Stanton: Yes

Mr. Sitzler: Maybe that might be where you can move the fence back

Mrs. Stanton: That is what we were thinking, just from reviewing that is where about I estimated. Our panels are 8ft panels and maybe about 4 to 5 panels

Mr. Dougherty: That would take care of the safety issue. The other thing to consider is the odd shape of the lot which is a pie shape it is not perfectly square and the way the building is positioned would go along with the argument for granting of a variance. It is a unique shaped lot there are some hardships potentially provided by the testimony and then safety and security. So if the board basically is in agreement we can proceed on granting the variances. It would be a front yard variance for a height greater than 30inches in one case it would be 4ft in a front yard and for a fence greater than 30inches at

6ft in a front yard. And this is a condition of course that the fence is moved back 2 1/2ft so it is out of the county right of way and the fence would be moved so it is out of the sight line.

Mrs. Stanton: and that is along Turnerville Road that we would move it back

Mr. Dougherty: Correct

Mr. Castor: Is this property completely fenced in

Mr. Stanton: Not really what is the front yard is fenced in

Mrs. Stanton: Yes it stops at the side; the front of the house is not

Mr. Waddington: so that black radius line is not the fence

Mr. Dougherty: That is the property lien; as a matter of fact if this was a typical lot not on the corner the way that 4ft high fence that would not need a variance if this were a typical lot because it is off the front face of the building; that dark line that says 4ft high that is the front face of the building the ordinance says can't go beyond the front of the building so if this was in the middle of the block lot that fence would be okay.

Mr. Waddington: but it says it's a corner lot

Mr. Dougherty: Correct

Mr. Stanton: Like I said we have been there 20 years and we had no idea

Mr. Waddington: does anyone else from the board have any questions?

Mr. Castor: Would you consider lowering the fence as an option?

Mrs. Stanton: I could lower it to 30 inches but there is a problem with the trash along Turnerville Road

Mr. Castor: But that is the problem you have as the high stands it's an ordinance, it's not a safety issue concerning your dogs or your kids it is an ordinance that says the fence can't be that close to the property line. I don't know how the board feels about it but these ordinances have been put in there for a reason long before I came around here. It says no 6ft fence for a reason

Mr. Dougherty: It actually says it cannot exceed 6ft so the height of 6ft is permissible but it's not permissible

Mr. Castor: where it is at

Mr. Sitzler: 6ft is the maximum for the Borough am I not correct?

Mr. Castor: Yes

Mr. Sitzler: So they are not exceeding maximum according to, but for their particular property since they are on a corner lot, but it is probably legal in some spots where it is

Mr. Castor: Right

Mr. Waddington: where it is scalloped it does not go 6ft

Mrs. Stanton: And our property goes up and down in areas it is kind of like on a hill

Mr. Waddington: any more comments from any of the board members other than Mr. Castor? I will say that for me if I was living on that road I would be seeking a variance also

Mr. Castor: I'm not disputing that at all

Mr. Waddington: Especially if they are willing to move it back 2 1/2ft

Mr. Castor: They do not have a choice there

Mr. Waddington: I understand that

Mr. Castor: If the County rides by and spots it they are going to have to move it quickly or be fined

Mr. Sitzler: The factors that it did gravitate and again the law is that if we tear a non-conforming structure down and replace it with new even if it is an exactly the same we are bound by the current ordinance. This is one of the reasons we have a Zoning Board to consider variances not only did it exist for the last 20 years but it existed before they got it that way so this is to let the board know that this isn't something that anybody can come in here now with a corner lot and put up a 6ft fence because the turning point here is that these folks if of course if the board is considering granting these multiple variances and the big issue the board should consider and I think you would agree with me is the safety; making sure all the safety issues are covered for the people who are traveling on the roads so the left corner the 2 1/2ft that can't be granted it has to be moved. The height of the fence does not exceed the borough maximum for the rest of the borough and that was the height of the fence back in the day when they bought the property and as they indicated if they knew then what they know now they would have probably just repaired the fence. I think it is an unusual situation and that is why it is in front of this board and that is why the board has the power to grant waivers

Mr. Castor: and it is a shame that they spent a lot of money to put that up I know it is not a cheap fence

Mr. Waddington: If no one else on the board has any questions, I would entertain a motion to open the floor to the public in case there is someone here to speak.

Mr. Castor: I make a motion we open the floor to the public

Mr. Waddington: is there a second

Mr. Ford: I'll second

Mr. Waddington: at this time if there is anybody in the public that would like to address the board concerning this matter you can come up. I don't see any movement

Mr. Castor: Make a motion to close

Mr. Ford: Second

Mr. Waddington: are there any other questions before we entertain a motion?

Mr. Sitzler: Just for housekeeping purposes since I did not see that; was everybody notified that there would be a hearing Les?

Mr. Gallagher: Yes; I have all that documentation

Mr. Sitzler: okay I just wanted to make that part of the record

Mr. Ford: I just wanted to clarify something; the fence that comes off the house that is only supposed to be 30inches?

Mr. Waddington: Yes

Mr. Ford: but it is 40

Mr. Stanton: Yes

Mr. Ford: so with a sight triangle that is supposed to come back but that is at 6ft rather than 30inches and it needs to be moved in the 2 1/2ft

Mr. Dougherty: Yes

Mr. Ford: I just wanted to make sure I had all the dimensions down right

Mr. Waddington: And if it was not a corner lot that 4ft fence would not be an issue, but because it is a corner lot that is why they need a variance

Mr. Castor: will moving the fence 2 1/2ft solve the sight issue

Mr. Dougherty: So moving it 2 1/2ft that will really not address the sight issue but is going to be out of the right of way and the fact that it is along/parallel to Turnerville Road isn't the sight distance problem it is coming in and out of Pine Street

Mr. Castor: That is what I'm talking about will that address the problem

Mr. Dougherty: Moving it back won't but then cutting it off on a triangle will

Mr. Castor: That will

Mr. Dougherty: Yes; that would definitely address the sight distance problem

Mr. Castor: they are willing to cut it on a triangle on the corner for the sight

Mrs. Stanton: Yes

Mr. Sitzler: Would you be willing to work with our Engineer to make sure

Mrs. Stanton: Yes I would love to have his help

Mr. Sitzler: for advise

Mr. Dougherty: I don't think I'm going to be digging any holes

Mrs. Stanton: Just so he can show us where it has to be done put stakes down, I will definitely need some help

Mr. Castor: do we need to do all three (3) of these variances at once or do they have to be done one at a time?

Mr. Sitzler: Good question: since I've been trying to take notes here let me see if I can get these correct. I will make sure our Engineer and I will know and then I can let the board know what we are trying to do. Number 1 we need two front yard variances correct?

Mr. Dougherty: Yes

Mr. Sitzler: We should delineate them;

Mr. Dougherty: One being on Pine Street and the other being on Turnerville Road

Mr. Sitzler: and on the one front yard we need a variance from 30inches to 6ft

Mr. Dougherty: Correct and that is along Turnerville-Hickstown Road

Mr. Sitzler: along Turnerville-Hickstown Road; and the other one front yard variance from 30inches to 4ft

Mr. Dougherty: Correct; and that is on Pine Street

Mr. Sitzler: okay; and then we need a variance to allow them to move the fence back

Mr. Dougherty: That would not be a variance they have to move the fence back

Mr. Sitzler: alright 4 variances

Mr. Dougherty: Right

Mr. Sitzler: Alright for the boards consideration there are 4 total variances; you can take them if the board wants we can either vote them in bulk or if any board members have a question we can do one or more together but not all or we can do them individually it is the boards pleasure. If anybody can't feel

they can support all four we will do them individually as four separate; maybe it is better to do four separate. The first one

Mr. Castor: do them all at once

Mr. Sitzler: do them all at once

Mr. Castor: Everybody in agreement:

All hands raised “aye”

Mr. Sitzler: The resolution would be the motion to approve all variances; first for a front yard variance for the fence on Pine Street and then there would be a front yard variance for the fence on Turnerville-Hickstown Road, then there would be the variance for the fence in the front yard can be no more than 30inches to allow for a 6ft fence and then the last variance would be for a front yard variance of 30inches to allow for a 4ft fence; condition of approval would be that the fence on Turnerville-Hickstown Road that is in the county right-a-way would have to be moved 2 1/2ft

Mr. Dougherty: Right and the other condition would be the sight triangle

Mr. Sitzler: and another condition again as far as this would be the sight triangle at the corner of Pine and Turnerville

Mr. Dougherty: The fence would be moved/relocated to accommodate the sight triangle

Mr. Sitzler: okay; to be moved to accommodate the sight triangle at Pine and Turnerville with the assistance of the Board Engineer

Mr. Dougherty: Yes I would agree

Mr. Sitzler: okay that is before the board if anyone would have any motion one way or the other

Mr. Castor: Because of the hardship and because they will have to move the fence and that is going to cost money; I make a motion we approve the variances all four of them with the conditions as stated

Mrs. Ciotto: I second it

Mr. Waddington: I have a first and a second is there any questions; roll call please

Roll Call: All “aye” motion carried

Mrs. Stanton: Thank you very much

Mr. Stanton: Is there anything else we need to do?

Mr. Sitzler: Well we have to do a resolution formerly on what we just voted on and when complete you will be given a copy of it and it will also be given to our Zoning Officer then you can apply for your permit to do what you have to do

Old Business: **Mr. Waddington:** Any old business

New Business: **Mr. Waddington:** does anyone have any new business? Just a reminder the next meeting is April 14th at 7:30 pm

Open Meeting to the Public: **Mr. Castor:** I make a motion to open the floor to the public

Mr. Waddington: I have a motion

Mr. Ford: second

Mr. Waddington: Floor is open to the public; seeing none

Close Meeting to the Public: **Mr. Castor:** I make a motion to close the meeting to the public

Mr. Waddington: motion to close

Mr. Ford: I second

Mr. Waddington: all in favor; all "aye"

Motion to Adjourn: **Mr. Waddington:** can I have a motion to adjourn

Mr. Castor: I make a motion to adjourn

Mr. Ford: I second

Mr. Waddington: all in favor: all "aye" motion carried