

MINUTES OF THE REGULAR MEETING OF THE AMBERLEY VILLAGE
BOARD OF ZONING APPEALS HELD AT THE AMBERLEY VILLAGE HALL
MONDAY, JANUARY 4, 2010

Chairperson Jon Chaiken called to order a regular meeting of the Amberley Village Board of Zoning Appeals held at the Amberley Village Hall on Monday, January 4, at 7:00 P.M.

The Clerk called the roll:

PRESENT: Jon Chaiken, Chairperson
 Larry McGraw
 Susan Rissover (arrived late)
 Scott Wolf
 Elinor Ziv

ALSO PRESENT: Bernard Boraten, Village Manager
 Nicole Browder, Clerk

ABSENT:

Mr. Chaiken asked if there were any additions or corrections to the minutes of the November 2, 2009 meeting that had been distributed. There being none, Mrs. Ziv moved to approve the minutes. Seconded by Mr. Wolf and the motion carried unanimously.

Board of Zoning Appeals Case No. 1045

Mr. Chaiken announced that the Board would consider a request from Congregation Zichron Eliezer (formerly Kneseth Israel Congregation) for the modification of the existing landscape plan, which incorporated additional tree plantings for screening purposes on the site.

Mr. Chaiken invited the attorney for the congregation, Marc Randolph, to present the details of this request to the Board. Mr. Randolph gave a brief history and explanation of the usage of the Mikvah and the need for the utmost privacy for those using the facility. He pointed out that once the final landscaping was installed, it was determined that the end result did not provide enough screening for the level of privacy desired. Additional trees were installed to block various viewpoints on the property. Three trees were planted on Wendy Saunders property and she responded with an email commenting that the plantings were an improvement for her views. Trees were planted to screen views from Isaac Rosedale's property also. Mr. Randolph stated that the congregation did not realize that the tree plantings would require approval by the Board and he would like to request retroactive approval for these plantings that have already been installed.

Mr. Chaiken stated that the Board has worked hard with the congregation to satisfy the project construction. He pointed out that this was a major change to the landscape plan. He expressed that any change to the approved plans must be brought before the Board for review prior to be done.

Mr. Chaiken continued by stating that it is not fair to the Board or the residents of the community who look to the Board for enforcement of conditions. He stressed that this change was not just

the addition of a tree or a bush. The magnitude of trees that were planted clearly requires approval.

Mr. McGraw then asked if the police/fire department had reviewed the safety of entering and exiting the driveway now with the additional trees blocking views. Mr. Stan Better, who was present in the audience, explained that Chief Monahan had, in fact, visited the site for fire safety purposes and agreed that the additional plantings were okay.

Mr. Chaiken stated that there was also a new path and gate installed for access to Mr. Rosedale's property and this was not on the plan. Mr. Randolph explained that he has learned that there are now two other sidewalks installed of which he was not aware. Mr. Chaiken stated that these additions have been blatantly made with coming to the Board in advance.

Mr. Stan Better commented that all of the issues were verbally brought to the Village Manager's attention. Mr. Better stated that he was told that the Village Manager could not speak for the Board. Mr. Better stated that the plantings were completed so that the planting season was not missed as we were headed into winter.

Mr. Boraten stated that when the call came into him, he was told that all of the trees were on the site ready to be planted and if they were not planted, the trees would die. Mr. Boraten stated that he informed Mr. Better that he could not approve and if Mr. Better were to proceed, it would be at his own risk.

Mr. Randolph commented that he had strong words with his client regarding the required procedures for approval of changes. Mr. Wolf stated that disregard for the Board is not how the process works.

There was discussion among the group regarding where and why the path exists on Mr. Rosedale's property. Mr. Randolph stated that this was built in order to keep people from walking on Section Road.

Mr. Randolph stated that Mr. Rosedale was upset that there were views into his windows and that is why the additional screening was added. Mrs. Ziv pointed out that the congregation's building committee members should be present at these meetings so that they can understand the requirements instead of Mr. Randolph being caught in the middle.

Mrs. Wendy Saunders, present in the audience, commented that her property sits alongside the congregation's site. She wanted the Board to know that she is very pleased with the additional plantings.

Mr. Chaiken stated to Mr. Randolph that a clear message must be taken back to the congregation. Any change must be in front of the Board in advance of the purchase of materials and construction.

Mr. Randolph continued to express his disappointment in what was done prior to authorization.

Mr. McGraw pointed out that he cannot understand how the proper amount of screening was not planned for in the first place, considering the level of privacy associated with the Mikvah.

Mrs. Ziv stated that there are two separate issues: 1) trees and 2) the walkway to Mr. Rosedale's property. Mr. Chaiken stated that the Board was only to address the trees this evening.

Mr. Wolf stated that he would like more information on the gate and pathway. Mr. Chaiken pointed out that this item was subject to removal.

Mr. Randolph stated that he does not believe his client did these things purposefully with disregard for the Board.

Mr. McGraw asked Mr. Boraten if this change means that the building permit must be reissued.

Mr. Boraten stated that the sidewalks need permits because of the conditional use permit. Typically that would not be required. The gate, which is made of two pillars and a door, would not normally be regulated or subject to permit. There are driveway pillars in various locations of the Village and they are not subject to permit.

After additional discussion, Mr. Chaiken requested a motion on the matter. Mrs. Risover moved to approve the tree plantings which modify the existing landscape plan with the understanding that all future changes to the site, regardless of the ultimate prospect of acceptability, that deviate from the plan as approved would result in an action from this Board that would require the congregation to remove the change and submit their request through the proper channels, as required by the Board. Seconded by Mr. McGraw. The motion carried unanimously.

Mrs. Wendy Saunders commented that she appreciated the fact that the Board adheres to the approved plans.

There being no other business to discuss, Mrs. Risover moved to adjourn. Seconded by Mrs. Ziv and the motion carried unanimously.

Nicole Browder, Clerk

Jon Chaiken, Chairperson