

**ZONING BOARD OF APPEALS
SATURDAY, FEBRUARY 25, 2012
3:00 P.M.**

Present: Chairman Ogden Lewis, T. David Mullen, Charles Mott, Alexander Ames, Robert Treuhold, Alternate Brendan Ryan, and Village Attorney Richard DePetris

1) Chairman Ogden Lewis brought the meeting to order. The first item of business was the approval of the minutes of the January 21, 2012 meeting.

DECISION: MR. LEWIS MOVED TO APPROVE THE MINUTES OF THE JANUARY 21, 2012 MEETING. MR. TREUHOLD SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

2) Next was the holdover application of **Frank Corvino**. Attorney **James Hulme** was present for the applicant. Mr. Corvino, the applicant, was also present. Attorney Hulme explained that the subject property is a corner lot with its primary front yard as Woodland Way. There are two structures on the survey that do not have the benefit of CO's, the basketball hoop, and the bocce ball court. In his January 19, 2012 letter, Mr. Hulme explained to the board that his client would no longer be seeking relief for the basketball hoop, as they plan to either remove the basketball hoop all together or place it in a conforming location. The only relief they would now be seeking was for the bocce ball court, accessory structure rear yard setback. He explained that the bocce ball court was 60 feet long by 12 feet wide, with a flat Har-Tru surface. Mr. Hulme also explained that the bocce ball court was the only structure that the Corvinos installed. The outside lights, gazebo, swimming pool, basketball court, and hoop were all installed by a prior owner. He indicated that there was no intent on his client's part to violate any laws. They assumed that the contractor who installed the court was familiar with what could legally be done. Mr. Hulme explained that the bocce ball court was already 35 feet away from the lot on the east, and if they moved the court forward, it would still remain 35 feet from the lot on the east. He also felt the neighbor to the north would want the court to remain where it was, near the rear yard of all the properties concerned. Mr. Hulme explained that they could not put the court in the front yard as it could then affect the neighbors across the street.

Mr. Corvino came forward to explain that he and his family wanted to be good neighbors. The basketball hoop was on the property when they purchased the property and they did not know it was nonconforming, but have now agreed to take it down. He said they had received complaints about the lights in the front and rear of their house, which lights were

also in place when they purchased their house. He said they had the lights in the rear yard changed and turned down, and have shut off the lights on the pole in the front of the house in an effort to be good neighbors. He explained that even if they ripped up the bocce ball court, they will still play games in that specific corner of their yard.

Attorney **Eric Bregman** came forward representing the neighbors, the **Jakes** and the **Schwartzes**. He said that Mr. Jakes felt that not only had he been disturbed by ongoing noise every weekend in the summer, but that the noise interfered with his ability to enjoy his backyard deck. He indicated that Mr. Schwartz felt the same. The concentration and combination of the noise from the Corvino's swimming pool, deck, outdoor sound system, television, basketball hoop, and bocce court interfered with the Jakes and the Schwartz's ability to enjoy their back yard decks. Mr. Bregman felt the Corvino's problems were self created and that there were alternative locations that would not require a variance. He proposed the Corvino's could position the bocce ball court running north and south next to the house, near the driveway. He also proposed putting the bocce ball court where the putting green was now located, separating the bocce ball court from the Jakes substantially. Mr. Corvino explained that there were very large trees that would have to be cut down to meet that requirement. Attorney Bregman submitted a survey and said he did not see any trees in that area that needed to be removed. He felt it would be best to diffuse the backyard noise by moving some of the activities to different locations.

Attorney Hulme explained that the 'self created' factor is only 1 of 5 criteria used to determine the granting of relief. He also felt that balancing all the circumstances in their situation, the location the Corvino's have already chosen for the bocce ball court, maximizes the distance from all the neighbors. Mr. Corvino explained that it would be quite an expense to move the bocce ball court, and felt that moving the court would not necessarily move the noise out of that corner of the yard. He explained that the noise concentration is around the pool and they were not going to move their pool. He felt they would do whatever they could to minimize the noise level, and did not want their neighbors to have to complain.

Mr. Bregman did not believe that the fact that Mr. Corvino would suffer a financial hardship should not have any bearing on the board's decision. He reiterated that the noise concentration was around the swimming pool, and it was increased by the installation of the bocce court. He also felt the Corvino's were creating an undesirable change to the neighborhood, and felt the requested area variance was very substantial.

Chairman Lewis explained that "noise" was not the jurisdiction of the zoning board. The board was looking at the location of the bocce ball court to see if it was in violation of the village code and if there was a suitable alternative. He explained that because someone wanted something on their property did not mean they could have it where they want it. Mr. DePetris explained that the survey showed the bocce ball court to be 531 SF., making it almost 200 feet less than the dimensions originally indicated on the survey. He said the survey showed the total area and not the actual dimensions. Mr. Hulme explained he would have the surveyor provide the actual dimensions.

DECISION: MR. LEWIS MOVED TO ADJOURN THE CORVINO APPLICATION FOR DECISION SUBJECT TO SUBMISSION OF A REVISED SURVEY SHOWING THE ACTUAL DIMENSIONS OF THE BOCCE BALL COURT. MR TREUHOLD SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED.

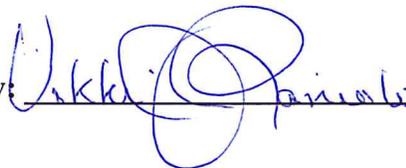
3) Next was the holdover application of **Donna J. Astion and Michael D. Fricklas** for a gross floor area variance to 5,513 square feet, a rear yard/water setback variance to 47.7 feet, a height variance to 25' 4" within the required rear yard and a lot coverage variance to 27% in order to permit proposed second story addition (together with proposed access addition) to existing house. Premises are known as **18 Beach Lane. TM #902-14-1-9**

Realtor **Craig Carbone** was present for the applicants. He presented the board with documentation of what he felt were examples of excess gross lot living areas on Beach Lane. He had information on the neighbor to the subject property and the Weiner house, at the end of the road. Attorney DePetris explained that the board needed information regarding the gross floor area of the houses in the neighborhood on the east side of Beach Lane. Mr. Carbone explained that all other houses were either conforming or under except the two he had indicated. He explained there were only 2 that were nonconforming. Mr. DePetris explained that this would be a precedent setting case for the board and they would have to have more data in order to make and write up a decision. Mr. Carbone explained that he would provide the board with data on each lot on the road. He said he would also get Mr. Nowak's help in verifying the size of the two houses he did provide information on. Mr. DePetris explained to Mr. Carbone that in calculating gross floor area each building on the property is separate, and the total cannot be combined. He explained that gross floor area was the maximum floor area for a house. The board also wanted to have the data of the setback footage of the new roof overhang, in case they should be measuring the setback from the overhang instead of the side of the building. The board also wanted to know if the roof on the second story addition could be reduced in size or if the roofline could be changed to a gambrel roof rather than the barn roof shown, in an effort to reduce the bulk. Mr. Carbone indicated that he would inquire with his clients.

DECISION: MR. LEWIS MOVED THAT THE ASTION/FRICKLAS APPLICATION BE ADJOURNED TO THE NEXT MEETING. MR. AMES SECONDED THE MOTION. THE MOTION WAS UNANIMOUSLY CARRIED,

The meeting was adjourned.

Respectfully submitted by:



File date: 3/19/12