

ZONING BOARD OF APPEALS MEETING

TOWN OF SMITHTOWN

VILLAGE OF THE BRANCH

TUESDAY, OCTOBER 25, 2022

99 WEST MAIN STREET

SMITHTOWN, NY 11787

7:30 P.M.

APPEARANCES:

JOSEPH MAGLIATO, Chairman

DENNIS BADER, Member

EVAN DICK, Member

CHARLES ROBELEN, Member

CHRISTINE COZINE, Village Clerk

DEVIN FAELLO, Flawless Masonry

KATHLEEN BRESLIN

4 Berkley Place

KEITH POSTEL

7 Berkley Place

1 CHAIRMAN MAGLIATO: Okay, I'd like
2 to call to order the meeting of the Board of
3 Zoning Appeals for October the 25th of 2022.
4 We have an application before us for looking
5 for three variances [inaudible] setback
6 reduction as well as increasing [inaudible]
7 restructure [inaudible], and if you're going
8 to speak tonight, this is a public hearing.
9 You're welcome to. Say pretty much anything
10 that you'd like.

11 All we ask is that you clearly tell
12 us your name and your address

13 MS. COZINE: Hi, I'm Christine. I'm
14 the clerk. Just one question.

15 CHAIRMAN MAGLIATO: Yes.

16 MS. COZINE: Does the applicant have
17 their copies of the -- are you representing
18 the applicant? Do you have the green --

19 SPEAKER: I have it in the car
20 [inaudible].

21 MS. COZINE: Yes, I just need it to
22 verify. I'm sorry. Thank you.

23 CHAIRMAN MAGLIATO: Okay, and so for
24 the homeowners [inaudible] presenting the
25 project and [inaudible]. Just let him

1 [inaudible] your last name. Okay, so
2 [inaudible] say again?

3 [inaudible] supposed to be here,
4 what [inaudible] or what the intentions of
5 the homeowner and why they're asking for
6 [inaudible] variance.

7 SPEAKER: Do you want me to start
8 with that?

9 CHAIRMAN MAGLIATO: Yes.

10 SPEAKER: Hi, guys. How are you?
11 So let me start from the beginning. I did
12 design [inaudible] exterior work [inaudible]
13 stuff like that. In the beginning
14 [inaudible] has 2,000 [inaudible]. I called
15 the town [inaudible] setbacks [inaudible].

16 They had a girl working here. I
17 don't know who the woman is. I don't know
18 if she was fired. I don't know if she was
19 quit. She was giving out [inaudible]
20 information. She was taking people's stuff
21 and stuffing it in a drawer and not doing
22 anything with it. This project started over
23 a year ago.

24 So based on the information I was
25 given, that's how I did the plans. That's

1 why some of the setbacks are where they are
2 right now. We're looking to do [inaudible]
3 four columns, cover up the [inaudible] area.
4 It's [inaudible] seven-foot setback on that,
5 Joe? Seven feet off [inaudible] see how
6 it's set up. It's not like it's near
7 somebody's house, or their bedroom. It's
8 safely back from the people's yard. The
9 pool is about five or six feet closer to the
10 property than it's supposed to be.

11 What was the third thing? The
12 pergola? [inaudible] do a pergola on the
13 backside of the pool [inaudible] patio area.
14 So that one is still a bit [inaudible]. It's
15 like eight or ten feet, right?

16 CHAIRMAN MAGLIATO: According to the
17 application or according to the building
18 department's denial, it was set back is 25
19 feet to 7 feet. I'm assuming that
20 [inaudible].

21 SPEAKER: But as far as the pergola,
22 how far is the pergola from the property?

23 CHAIRMAN MAGLIATO: [inaudible]

24 SPEAKER: Okay [inaudible]

25 SPEAKER: [inaudible] member of the

1 BZA. In reading the negative declaration
2 here, I incorrectly read it where it says
3 less than 25 feet to 19 feet, and that's to
4 [inaudible] swimming pool, not the pergola.
5 [inaudible] so you would need to increase it
6 [inaudible].

7 CHAIRMAN MAGLIATO: [inaudible]

8 SPEAKER: I think it's either seven
9 or eight feet when we measured it, but it's
10 not showing on here.

11 SPEAKER: You got to understand
12 [inaudible].

13 The pavilion is between seven and
14 eight feet over the property line. The
15 pergola is about nine and a half, I would
16 say, over the property line. Again, where
17 these two structures are located
18 [inaudible]. The pavilion [inaudible] put
19 off to the side here [inaudible] block any
20 of the windows in the house [inaudible] and
21 the pergola is all the way in the back side
22 of the pool.

23 If you see [inaudible], it's nowhere
24 near anybody's home and it's not blocking
25 anybody's view [inaudible]. Keep in mind,

1 too, these are two [inaudible] people. They
2 have two beautiful kids. They're quiet.
3 They [inaudible] jobs. One of them works for
4 the school district [inaudible] come down
5 from Las Vegas.

6 That's really it. That's what we're
7 trying to do. This is where the swimming
8 pool. The setback is supposed to be 25 feet
9 and [inaudible]. Any questions?

10 [Inaudible conversation] Yes?

11 SPEAKER: [inaudible] I think it's
12 supposed to be four feet. It's not four
13 feet [inaudible]. So that's [inaudible].

14 CHAIRMAN MAGLIATO: You're
15 absolutely right. The code would be a four-
16 foot fence [inaudible].

17 SPEAKER: [inaudible]

18 CHAIRMAN MAGLIATO: It would have to
19 be [inaudible].

20 SPEAKER: I know that they have
21 contact with the fence company and we
22 [inaudible] spoke to you guys [inaudible],
23 safety issue [inaudible], whatever the code
24 is. It's about four feet [inaudible]

25 [Inaudible conversation]

1 SPEAKER: [inaudible] six foot fence
2 for privacy [inaudible].

3 FEMALE: We have grandchildren and
4 people next door to me have young children
5 and [inaudible].

6 SPEAKER: [inaudible]

7 FEMALE: Yeah.

8 SPEAKER: I think [inaudible] I'm
9 going to tell them that's part of what we
10 [inaudible] give a little, get a little
11 thing.

12 [inaudible] an additional
13 [inaudible] fencing, additional planting
14 [inaudible]. I know [inaudible] so I can
15 definitely [inaudible].

16 FEMALE: [inaudible]

17 SPEAKER: [inaudible] rip the whole
18 thing out and do a whole new six foot fence.
19 [inaudible] doing that anyway [inaudible],
20 but [inaudible] get it done right away,
21 that's fine.

22 SPEAKER: Anybody else?

23 SPEAKER: On the letter I received,
24 it says Section 275-14c Village Code states
25 that a [inaudible] has no more than two

1 [inaudible].

2 CHAIRMAN MAGLIATO: Okay, well --

3 MS. COZINE: Can I interject?

4 CHAIRMAN MAGLIATO: Yes, go ahead.

5 MS. COZINE: We just recently
6 changed the code. We just did it last month
7 at our meeting, and so now you're allowed to
8 have two accessory structures, yes, and they
9 increased the size from 300 square feet to
10 750 square feet.

11 SPEAKER: [inaudible]

12 MS. COZINE: It's -- no, it's in
13 our minutes on the website, but you know
14 what, it was sent to New York State. I
15 probably have to upload it to Easy Code and
16 then they'll put it on our website on line.

17 SPEAKER: [inaudible] to what?

18 MS. COZINE: 300 square feet to 750
19 square feet. Mm-hmm.

20 CHAIRMAN MAGLIATO: Anybody else
21 [inaudible] question? Okay, so we're going
22 to close the public portion. I'd like to
23 hear a motion to close the public portion.

24 SPEAKER: [inaudible] I'd like to
25 make a motion and close the public portion

1 of the meeting.

2 SPEAKER: I second it.

3 CHAIRMAN MAGLIATO: Okay, so from
4 here on it, it's basically us.

5 MS. COZINE: Yes, that's what I was
6 talking to you about earlier.

7 [Inaudible conversation]

8 CHAIRMAN MAGLIATO: So I'd like to
9 open the second meeting of the Board of
10 Zoning Appeals.

11 Okay, with regard to this
12 [inaudible], I like to see [inaudible].

13 SPEAKER: I have a couple of things.
14 First of all, some of things [inaudible]
15 appear to me to be a little bit on the
16 egregious side. As long as I've been on the
17 board, and I've been on the board 20 years,
18 we've never allowed less than a ten foot
19 setback to the side or the rear. Never that
20 I can recall.

21 The plans call for a seven foot
22 fence. In my opinion, unreasonably close to
23 your next neighbor. We did talk to the
24 homeowners, and we asked them if they would
25 at any point reconsider on some of these

1 distances. I don't know what the
2 [inaudible] result of that was, conclusion
3 wise, however, like I said, the [inaudible]
4 seven feet at the side neighbor, seems a
5 little bit, in my opinion, too close to the
6 side neighbor.

7 SPEAKER: The [inaudible] is not the
8 concept.

9 CHAIRMAN MAGLIATO: Unfortunately,
10 you'll have to just wait for the end of the
11 meeting and then --

12 SPEAKER: I just want [inaudible]
13 accurate information, that's all.

14 CHAIRMAN MAGLIATO: We appreciate
15 that, but [inaudible].

16 SPEAKER: [inaudible] I [inaudible]
17 board members [inaudible] close to the house
18 as [inaudible] pointed out, but the
19 structure itself goes further beyond that.

20 The window of the bump out I think
21 is a little bit further in from that, so the
22 structure, I don't think would be blocking
23 the window if it was moved three foot in. I
24 can't [inaudible] we didn't measure, but
25 that's [inaudible].

1 [inaudible] I thought we measured
2 that and I thought it was at eight foot
3 also. Again, to make the difference of two
4 feet in the pergola, I mean, that would be
5 taking off two rails, right, essentially?

6 CHAIRMAN MAGLIATO: Dennis,
7 [inaudible], he can't speak.

8 SPEAKER: So I would imagine it
9 takes off two rails [inaudible] so those are
10 the things we're looking at. We also noticed
11 there's some discrepancy with the pool. The
12 distance the pool [inaudible] bump outs of
13 one counted in, so the actual distance on
14 this is incorrect. [inaudible] measuring
15 was how many feet with the bump out on the
16 pool?

17 CHAIRMAN MAGLIATO: Yes, as far as
18 the actual structure of the swimming pool?
19 Yeah, it's not right. The setback is not
20 [inaudible]. Understand, we're not here to
21 survey, but [inaudible] at the end of the
22 day that bump out cuts into [inaudible].
23 Obviously where we're heading is we're going
24 to [inaudible] plan of what's proposed and
25 what exists, so [inaudible], go ahead, do

1 you have anything else?

2 SPEAKER: No, the only other
3 question would be, was there a [inaudible]
4 exact distances. Did the neighbor just
5 mention something about the fence being
6 [inaudible] one side or the other?

7 CHAIRMAN MAGLIATO: [inaudible] the
8 whole property [inaudible] by a four foot
9 fence, so it was something in the back that
10 she believes was not to code, which is fine.
11 You could get a CO [inaudible].

12 SPEAKER: In any event, that will be
13 [inaudible] is going to be another set of
14 plans showing the proposed work, the
15 existing and the proposed work, because
16 these measurements are not correct. Again,
17 we're not getting a survey of the property.

18 SPEAKER: My big question is, would
19 we have to get [inaudible].

20 MS. CORZINE: For what?

21 SPEAKER: [inaudible]

22 MS. CORZINE: I think [inaudible].
23 No, but the pool doesn't have a permit,
24 that's the problem.

25 SPEAKER: [inaudible]

1 MS. CORZINE: Yes, they handed in a
2 permit.

3 SPEAKER: They have the permit.

4 MS. CORZINE: They do. Application
5 for a permit, but it was denied because it
6 definitely needed the variance based upon
7 Joe's mention here on the plans.

8 SPEAKER: [inaudible] the fence
9 [inaudible].

10 CHAIRMAN MAGLIATO: [inaudible] it's
11 accurate, but six months ago [inaudible]
12 survey [inaudible].

13 SPEAKER: [inaudible] from the seven
14 feet as opposed [inaudible] area. I wasn't
15 sure about what the actual [inaudible], and
16 then the actual setback [inaudible] from the
17 bump out that [inaudible] that bumps it out
18 a couple of -- another foot or two. So
19 those are the three main concerns, but I
20 don't really have any questions at this
21 time. I'll defer to [inaudible] at this
22 point.

23 SPEAKER: Thank you [inaudible] site
24 survey. I just want to make sure that I
25 understand everything that is being

1 requested.

2 The plans are slightly off, but as
3 of right now [inaudible] side yard setback
4 [inaudible] requesting 25 feet to 7 feet, so
5 they're asking for a variance of 18 feet
6 [inaudible] which is a pool [inaudible].

7 CHAIRMAN MAGLIATO: 25 feet to 7
8 feet is the [inaudible].

9 SPEAKER: That's the [inaudible],
10 fair enough. [inaudible] side yard
11 [inaudible] --

12 CHAIRMAN MAGLIATO: [inaudible] for
13 the pool.

14 SPEAKER: So that's 25 feet
15 [inaudible], when in actuality it's
16 [inaudible] a nine foot [inaudible] so
17 approximately nine foot variance [inaudible]
18 side yard, and then the number of
19 structures, they're allowed two now, and
20 they're requesting for the [inaudible] and
21 my understanding, the pool is already in?
22 That's [inaudible] already done.

23 That's it. That's all the
24 information I have on this.

25 CHAIRMAN MAGLIATO: [inaudible]

1 SPEAKER: [inaudible] 20 by 22, it's
2 a four-way gable. I think it is
3 [inaudible]. I don't have too much of a
4 problem with the setback for the pergola,
5 only because I believe the pergola is more
6 of an umbrella, basically something for
7 shade of the property rather than -- use it
8 as a living space [inaudible] an umbrella,
9 accomplishes the same thing, so I -- you
10 know, some of the [inaudible].

11 The equipment behind the shed, I got
12 to [inaudible]. I thought it was five feet.
13 Do you happen to know off the top of your
14 head?

15 MS. COZINE: For the shed?

16 SPEAKER: Yes. [inaudible]

17 MS. COZINE: Oh, yeah, it's -- I
18 think it's five feet and three feet for the
19 [inaudible], but as far as -- I think it's
20 okay, but I'm not a hundred percent sure, so
21 I don't want to --

22 SPEAKER: [inaudible], the point
23 being that I was look at a shed as everybody
24 has one. [inaudible] five feet, but
25 [inaudible] accessory [inaudible], so

1 calling it an accessory structure
2 [inaudible] you know, is kind of
3 [inaudible]. So much of an accessory
4 building especially because it's [inaudible]
5 which is [inaudible] the code. The most
6 serious issue I have is [inaudible].

7 SPEAKER: You said [inaudible]?

8 SPEAKER: Again [inaudible] I'm not
9 comfortable with setting a precedent,
10 because [inaudible].

11 SPEAKER: What is it supposed to be?
12 What's the setback now?

13 CHAIRMAN MAGLIATO: Twenty-five.

14 SPEAKER: [inaudible]

15 CHAIRMAN MAGLIATO: So first thing
16 I'm going to do is ask for an updated plan.
17 Other than that, I don't really have
18 anything else. You guys [inaudible] the
19 minutes [inaudible].

20 SPEAKER: Motion to approve the
21 minutes for September 22nd [inaudible].

22 CHAIRMAN MAGLIATO: Okay, motion to
23 close the meeting or does anybody have new
24 business?

25 SPEAKER: Motion to close

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[inaudible].

SPEAKER: Second.

CHAIRMAN MAGLIATO: Okay, meeting
closed.

(Meeting concluded)