

**LOPATCONG TOWNSHIP ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
JULY 10, 2019**

CALL TO ORDER BY CHAIRMAN GARY

SILENT PRAYER

PLEDGE OF ALLEGIANCE

OPEN PUBLIC MEETINGS STATEMENT: “adequate notice of this meeting has been provided indicating the time and place in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Star-Gazette and The Express-Times and by posting a copy on the bulletin board in the Municipal Building”.

ROLL CALL:

Present: Members Horun, Bittone, Unangst, Rutledge, Woolf and Chairman Gary Also Present - Planner Ritter and Attorney Ruitenberg

Absent: Vice Chairman Larsen and Engineer Wisnewski

OLD BUSINESS:

- Motion to Approve the Re-Organization/Regular Meeting Minutes of January 9, 2019

Motion by: Member Rutledge

Seconded by: Member Unangst

ROLL CALL:

AYES: Members Horun, Bittone, Unangst, Rutledge, Woolf and Chairman Gary

NAYS: None

NEW BUSINESS:

- Justin Williams – 893 Strykers Road – Block 86.07, Lot 53 – Seeking a Variance to extend the fence height from 4 feet to 6 feet, denied per Ordinance §243-64.1(B) – Will be installing a chain link fence

Chairman Gary - Mr. Williams

Mr. Williams: Should I come up?

Chairman Gary – Yes please. How are you?

Mr. Williams: I'm good; and yourself?

Chairman Gary: Doing well. Uh, could you state, uh,

Attorney Ruitenberg: Just, uh, state your name and address for the record please.

Mr. Williams: Justin Williams, 893 Stryker's Road, Phillipsburg New Jersey.

Attorney Ruitenberg: And, uh, could, do, let, let me just swear you in. Do you swear to tell the truth, nothing but, nothing but the truth, so help you God?

Mr. Williams: I do.

Attorney Ruitenberg: Or, or, uh, pledge to?

Mr. Williams: I do.

Attorney Ruitenberg: Okay.

Chairman Gary: Okay, so, tell us why you're here.

Mr. Williams: Uh, I have two large dogs and, uh, when I went to the, the city for a permit, they said I can only go 4' on a certain side of the, uh, house. I'm just applying for a variance to bump up to a 6', so I can just contain the dogs.

Secretary Coleman: You have to speak up.

Mr. Williams: Gottcha

Attorney Ruitenberg: Maybe just bring that microphone up a little closer. There you go.

Mr. Williams: Can you hear me now?

Attorney Ruitenberg: Yeah.

Mr. Williams: I applied for a variance to bump up the, uh, the height from a 4' to a 6' to contain the dogs. So that way they can, you know, run around and have fun and hang out with no worries.

Chairman Gary: Okay. Uh, and, and can you tell us why, uh, you need the 6' fence and opposed to a 4', which is, uh, well, I don't want to get ahead of myself. Um, George, can you help me out on this?

Planner Ritter: Well, yeah. There, basically the app, there's two questions with the application. First of all, uh, the Township does allow a 6' high fence. That's, that's, the issue there is not, is not so much the height of the fence, but where it's intended to be built. Uh, the applicant can clearly put a 6' high fence

Planner Ritter (Con't): along his rear lot line, side lot line, as long as it doesn't extend into his front yard. Really, the area between, uh, say the house and the front of the house and Stryker's Road. And in this case, since it's a corner lot, between the side of the house and James Avenue. Uh, within, within, and the variance that we're talking here, is really to install a 6' high fence in the space between the side of the house and James Avenue. Uh, which by ordinance, should not exceed 4' in height in that area. Uh, so that's really the question of relief, uh, that the applicant is seeking. There's also a secondary issue that we should just take some testimony on. And the town actually, I know the applicant has indicated that this area is to allow his dogs to run, which I have no problem with, obviously he, he can have his dogs, but the town has an ordinance dealing with dog runs which has a different, uh, set of standards than the typical fence area. And basically, a dog run, supposedly cannot be constructed within 20' of any lot line, alright, uh, and that the 6' clearly has to only be erected in the rear yard. So I guess the question I have, is in terms of allowing your dogs out, is this a place where they're going to be, like, permanently housed or are they house dogs that you open the back and say go have run?

Mr. Williams: House dogs.

Planner Ritter: Yeah, you know, that's why I, I assumed

Mr. Williams: I just want them to have free run of the yard, that's all.

Planner Ritter: And I, and I will tell the Board that the ordinance does not define dog runs. I mean there's nothing in there that really explains what

Chairman Gary: Uh huh.

Planner Ritter: that term means. I would, myself, tend to think of a dog run as if, as if you'd have a kennel in the back yard and have them out there 24 hours a day

Mr. Williams: Right.

Planner Ritter: and that kind of stuff. Clearly that's not what the applicant is seeking and so I don't think that section of the ordinance would apply. So the question really comes down to for the Board, tonight, is do they think it's appropriate to put a 6' high chain link fence between the side of the house and the James Avenue right-of-way, uh, in that area; rather than simply having the 6' fence and say at the corner of the, the house toward that street. Uh, rather you think that's appropriate or not, and, and that's where we are in, in that. Cause clearly, if it stops at the face of the house, facing James, it would not require a variance. In another words, he could put a 6' high fence extending from the corner of his house to the rear of the lot line; that would be permitted. Uh, it's really the fencing in the front yard, in, in what is the front yard of James Avenue. And, and that's really what the Board has to decide tonight. Uh, I will say I did drive by the property and when you drive through the neighborhood, the front yards on James Avenue has virtually no fencing anywhere around; and there is one 4' high picket fence that one of the neighbors had extended down their rear lot line and out to the edge of the street right-of-way. But there is no fencing on James Avenue that really box in that area anywhere around his house. Uh, so that's really the question that the Board has to decide, whether they think that the fencing should be pulled back if it has to be 6' high or

Planner Ritter (Con't): whether they're willing to grant an extension somewhere the face of the house and the road right-of-way or all the way out to where the applicant would like to see it.

Chairman Gary: Okay. Mr. Williams, is there any reason that you couldn't, that you couldn't pull it back to the, let's say, the rear of the, the house and, you know, your rear yard?

Mr. Williams: Right. Well, I just, the reason being, I just wanted full access of the yard for the dogs to run around in. They're big dogs, the 4' wouldn't compensate for them. They could stand on 4' and look clear over it.

Chairman Gary: What are they? What kind of dogs are they?

Mr. Williams: They're Pit Bulls.

Chairman Gary: Oh.

Mr. Williams: They're a large breed.

Chairman Gary: Okay.

Attorney Ruitenberg: It's understood that, that a 4' fence, but I guess the question the Chairman's asking is whether there's a reason that you couldn't take the fence from the corner, from this back rear corner and bring it straight back, rather than include that, um, well from your perspective, side yard

Mr. Williams: Right.

Attorney Ruitenberg: from, from a legal perspective, front yard portion along James Avenue.

Mr. Williams: It's just more access for the dogs, that's all. Not that, if I'm gonna have them over there hanging out for a while, I want to throw something on the grill, they can be in a separate side, that's all. For the dogs to have more freedom and if I'm going to have something at the house and I bring family over, I have plenty of room.

Chairman Gary: Is there, is there something in, in your, um, is there a pool or something in your backyard? I mean is there not adequate space in your back yard? I, I, I understand,

Mr. William: Right.

Chairman Gary: I really understand what you're saying, but, is there enough space in your backyard if you would pull the fence back? That they would have adequate room to run?

Mr. Williams: Um, not really, I would, I would like to have it out there.

Chairman Gary: I, I, I understand that

Mr. Williams: No, I want them to get exercise, you know?

Chairman Gary: Uh huh.

Mr. Williams: They're cooped up and I can bring them out, you know, certain times of the day. I make sure everybody's out, no neighbors around, I let them run around for a while and I gotta bring them back in my house, you know. Certain times, I let them have fun, bring them back. I gotta call and make sure nobody's around, so that way they don't go mess with (inaudible); any other dogs or whatever. So, I'm just making sure that they have plenty of room to run around in, into the yard, that's all.

Chairman Gary: Uh huh.

Mr. Williams: I mean, we have a big yard, I want to make sure I have full use of it.

Member Rutledge: Question of it being a chain link fence, going from a 4' fence to a 6' fence, so he's adding two 2' of fence that you can see through. Which, as far as I'm concerned, I have less objection to that than a four (4) foot high picket fence.

Mr. Williams: Right.

Chairman Gary: Oh yeah, I, I, I agree. You know, I agree. There's no, uh, sight distance, uh, problems or anything like that.

Member Rutledge: No, none, none.

Chairman Gary: Yeah, not, not at all. I was just, I happened to take a ride through and I, I noticed that there are some other, not necessarily on James, but on Stryker's, there are

Mr. Williams: Yeah.

Chairman Gary: some other,

Mr. Williams: Fences.

Chairman Gary: uh, um, there are some other houses who, who have, uh, the fence

Mr. Williams: Uh huh.

Chairman Gary: from the backside of the, back corners

Mr. Williams: Right.

Chairman Gary: of the, uh, house to the backyard.

Mr. Williams: Gotcha.

Chairman Gary: And that, you know, that, that's all I'm, I mean, a little bit less obtrusive, maybe, you know, I don't know.

Mr. Williams: Well

Chairman Gary: I don't live there.

Mr. Williams: I figured it wouldn't be a problem, you know, it wouldn't be a sore eye, because of the chain link; you can see right through it, so I figured

Chairman Gary: Sure,

Mr. Williams: (Inaudible), you know?

Chairman Gary: Yeah, yeah.

Mr. Williams: Cause it runs to the corner. Pretty much, if you ride by, all you're gonna see is just the front side of it.

Chairman Gary: Uh huh.

Mr. Williams: Unless you turn down James and then you'll see the rest of it.

Chairman Gary: Well, I, I was encouraged by the fact that I understood, then, it was a chain links.

Mr. Williams: Right.

Chairman Gary: That's, so you know, that's encouraging.

Mr. Williams: Yeah, it gets a little more easy.

Chairman Gary: Yeah, yeah.

Member Rutledge: I live right across the street and it doesn't bother me.

Chairman Gary: Uh huh.

Member Rutledge: But he lives directly across the street. What do you think of it?

Chairman Gary: Well, well, hang on Gus, we'll wait, we'll wait, we'll, we'll speak with these folks, if you don't mind,

Member Rutledge: I don't mind.

Chairman Gary: in a, in a little bit. Uh, anyone on the Board have any other questions?

Member Bittone: I have a question. You're, you're not planning to put any of that privacy slating

Mr. Williams: No.

Member Bittone: through the chain link, are you?

Mr. Williams: No.

Member Bittone: It's gonna, it's gonna remain open?

Mr. William: Yes sir.

Member Bittone: Thank you.

Mr. Williams: No problem.

Member Woolf: Right, the only other, I, I talked to one neighbor out there, uh, there only concern was, that's a school bus stop for kids

Mr. Williams: Uh huh.

Member Woolf: and they were wondering what the reaction of your animals would be if they were out during pickup and drop-off times.

Mr. Williams: Not a problem. They, they love kids. I, I have a two year old baby

Member Woolf: That was their concern (several talking at once – inaudible)

Chairman Gary: Well, I, I would suggest that a 6' fence would actually, uh, takes care of that, you know, in and of itself,

Member Woolf: Okay.

Chairman Gary: you know, uh, as opposed to a 4'. So, I, I mean I think that's a wise, wise choice.

Mr. Williams: All right. But they love kids, they wouldn't do anything to kids. They, they go crazy when they see kids.

Chairman Gary: Yeah. Uh, all right. Any, any, anyone else on the Board have any questions?

Planner Ritter: I just have one other, if, if, if the chain link fence, regardless of where it goes, uh, is it powder coated or just straight, uh, you know what I mean, is it, is it going to be vinyl black or is it

Mr. Williams: Black, yeah.

Planner Ritter: Okay, all right.

Chairman Gary: So, it's vin, it's vinyl?

Mr. William: Some type of coating that they put on it.

Chairman Gary: Okay.

(Inaudible – Several talking at once)

Mr. Williams: Galvanized one is a silver one that, that looks all nasty after a couple of years. The black one, it stays nice looking, so, it will be the all black one.

Chairman Gary: All right. Okay. Uh, anyone, anyone else have any

Member Woolf: The only question is, uh, would the, yeah, Maser, with, uh, his letter and stuff, uh, the details on how the base of that fence is going to be fastened.

Planner Ritter: Yeah, yeah, they, just for the Board's benefit, in my letter I've indicated that the applicant, there's several things, regardless of whether you approve it in the front yard or anywhere on the lot, uh, the, he has to supply us with a drawing that physically shows the real location of the fence. The one that was submitted for the Board's use, if you look in your package, is a hand drawn yellow line. Uh, we gotta make sure that whatever you approve is, stays on his property; doesn't get in the street right-of-way. So we need a drawing that actually, physically, locates where this fence is going to end up. And then I would like placed on that drawing, just a note that describes, and, and you submitted a note, which is fine, but I think it ought to go on the drawing that says the fence is 6' high; it's a chain link, here's a picture of it. So that the file is complete as to what he's putting in out there, so that when our town engineer goes out and looks, he'll have some basis to say, yeah you put it in right, or not you didn't.

Mr. Williams: If you look at some of the pictures I gave you, the material

Planner Ritter: Yeah, no, that's fine.

Mr. Williams: That, that's the actual material that's in the backyard.

Planner Ritter: Okay, that

Chairman Gary: Are you building it yourself?

Mr. Williams: I wish.

Chairman Gary: I, I just wondered, that's all.

Mr. Williams: I wish.

Chairman Gary: How about a gate? Do you have a gate (inaudible)?

Mr. Williams: Putting two, two gates on the front side, so that way you can have access into the, uh, lawnmower for when the contractors come on the back side.

Chairman Gary: Okay.

Mr. Williams: Hopefully, uh, one (inaudible) for the side.

Planner Ritter: Yeah, and, and we may as in the letter that that be shown on the plan, where the gates are. But yes, he's testified that he gonna put some gates.

Mr. Williams: Right

Chairman Gary: Okay.

Mr. Williams: There'll be two 5 footers and a 12 footer, so that way I can get the lawnmowers in and out, cause there a little big.

Chairman Gary: Okay. Any other questions for the Board?

Mr. Williams: Question, you install a gate, could the gate go up to the property line or does it have to be before the property line?

Chairman Gary: Um, I would defer to, um, George. Oh wait a second, say that again?

Mr. Williams: My property line, does the fence have to be on the property line or in, which is it stays on my property? You know a couple of inches in from the line.

Planner Ritter: Well, I clearly, we've, I would prefer, especially when you're running around the, uh, around the Township, uh, street right-of-way, that you set it back a few inches, cause at least, based on your old survey that you have here, this chain link fence is only going to be 8 1/2 feet off the curb. So, I'd prefer that, you know, you know where that line is and if you set it 6" inside of that or something, I

Mr. Williams: 6" inside of the, inside of the (inaudible)

Planner Ritter: Well, I don't think, I don't know, I don't know if there is a standard, I don't think there is.

Chairman Gary: Well I think we can, I don't know about front yard, I think that we can, um, I think the ordinance says that we can do property, you know, right on the line.

Planner Ritter: No, I, I agree.

Chairman Gary: Yeah.

Planner Ritter: I'm just, I'm just saying, well, I just, he has a survey, but the question is, does he really know where it is

Chairman Gary: Oh, okay.

Planner Ritter: if he puts it in

Chairman Gary: Yeah.

Planner Ritter: (Inaudible – several speaking)

Mr. Williams: It's already marked out at the property. We have, we have stakes already

Planner Ritter: Well, that's fine.

Mr. Williams: Yeah.

Planner Ritter: I, all I'm saying is, is that we want to make sure that it gets built on your property.

Mr. Williams: Right, right, right, right. They'll streamline everything and make sure everything is straight and on those property lines.

Member Rutledge: There's no, there's no sidewalk there now

Planner Ritter: That's correct.

Chairman Gary: Right, right.

Member Rutledge: so, should it be far enough back so a sidewalk could be put in or no?

Planner Ritter: Well it's a

Chairman Gary: Well, 8 ½'

Planner Ritter: You can get a sidewalk in 8 ½'.

Chairman Gary: It seems like that's far

Member Rutledge: It's going to be 8 ½' back?

Chairman Gary: Yeah.

Planner Ritter: Well, based on my scale it sure looks like the right-of-way is 8 ½' off the curb.

Attorney Ruitenberg: 8 ½' back from the roadway?

Mr. Williams: Right. Because, yeah, we have a small curb, maybe 5" deep. So I'm not sure if you would go from the outside, which is, you know, closer to the blacktop or the inside of that one. I don't know why that would be.

Chairman Gary: Well, I think it would be the outside. Regardless though, 8 ½', so.

Member Rutledge: It's gotta be 8 ½' (inaudible – several talking at once),

Mr. William: Gottcha.

Member Rutledge: so you can run a sidewalk there eventually.

Mr. Williams: Gottcha, I Gottcha yeah.

Chairman Gary: Um, okay, anyone else? Is there anyone from the public who would like to, um? Okay, wanna come forward please.

Attorney Ruitenberg: Thank you Mr. Williams.

Mr. Williams: Thank you.

Audience Member: Brian Weeks, 208 South 7th Street. Um, when I measure the roads, I find the width of that road, it tells me on my map that's 60'. I find the center of that road and measure out, alright, so I need to make sure, maybe it might be 10' into that road. Alright? I need to be able to access that, alright, so, keep that in mind when you look at your planning. That you're not, 8' might not be big enough.

Chairman Gary: Now wait, back, backup, backup Brian. So say that again.

Mr. Weeks: Alright, let's say the road right now, the pavements, uh, 40', okay but it says it supposed to be 60. Okay? So that's our right-of-way on each side. So I measure the road, I split it in half and I go out 30' and 30'. That tells me where my right-of-way is.

Chairman Gary: Okay.

Mr. Weeks: Alright, give or take, you know what I mean, a couple of inches. So, you have to measure what, I would start with is James and it would tell you where, if you would look at the map, it's gonna tell me where my right-of-way. So I'm saying, you're telling me 8 ½', I'm saying it might be 10, might be 12, might 5.

Mr. Williams: Right.

Mr. Weeks: You know what I mean? So,

Member Bittone: And you're saying that the right-of-way on that street now, is

Mr. Weeks: I don't know what it is.

Member Bittone: Oh.

Mr. Weeks: I don't know what it is.

Chairman Gary: And so happens

Mr. Weeks: I'm just saying you put numbers to things that I don't know if George is

Chairman Gary: Well, and so how would that impact, uh,

Mr. Weeks: Well it impacts if I've got to dig it up.

Member Rutledge: (Inaudible)

Mr. Weeks: I'm not digging your fence up.

Member Rutledge: He wants to be,

Chairman Gary: Alright.

Member Rutledge: he wants to be 30' from the center of the road.

Chairman Gary: Right.

Member Bittone: No, he's not saying he wants to (inaudible – several talking at once).

Planner Ritter: No, no, I'm not saying that.

(Inaudible – Several talking at once)

Member Bittone: He wants to be, he wants to measure the right-of-way. That's how we should determine the James Avenue setback.

Member Rutledge: Yeah.

(Inaudible – several talking at once)

Member Bittone: So, we're, we're going to need to know what the, the, the width is supposed to be the right-of-way after James Avenue.

Planner Ritter: Yeah, the applicant has to know where that right-of-way is. That's all I'm saying. Based on this drawing he submitted, if you scale it to the curb, it looks like it's about 8 ½' in.

Mr. Williams: Uh huh.

Planner Ritter: Is that right? I, you know, I don't know. Because who knows if the engineer that, when he drew the survey, was all that concerned about locating the curb. You know, cause he might not have cared.

Mr. Williams: Right.

Planner Ritter: It might be off by a foot. I don't know.

Chairman Gary: Right. So the ownership is on Mr. William's to, um, be beyond the right-of-way.

Planner Ritter: Yes.

Chairman Gary: Correct?

Mr. Weeks: That's what I'm saying.

Chairman Gary: Okay. And that's, that's what we're hoping, uh, that's what we're hopeful of.

Mr. Williams: Gottcha.

Chairman Gary: Okay.

Attorney Ruitenberg: Well, we'll make that a condition of the approval that, that the fence will be constructed and that will be on you, to make sure it's not constructed on the Township's right-of-way. Because if it is, and it's ultimately built, we'll look back to this resolution and it will be clear that it was upon you to make sure it was not on the right-of-way. So if we do need to dig it up, it will be you replacing it rather than the Township. Do you understand?

Mr. Williams: Right.

Attorney Ruitenberg: Okay.

Chairman Gary: It, it is to your advantage to

Attorney Ruitenberg: Yes, I don't mean to be, you know, I, I,

Mr. Williams: Right. No problem.

Member Bittone: We only want you to do it once.

Mr. Williams: Right.

Member Bittone: That's all.

Attorney Ruitenberg: Nobody wants you to have to pay for it again.

(Inaudible – several talking at once).

Chairman Gary: Uh, is there anyone else, uh, would

Audience Member: There sure is.

Chairman Gary: Yes sir. Would you please come forward?

Audience Member: Uh, oh really?

Chairman Gary: Yes please. State your name

Richard Hoag

Chairman Gary: Well, wait, talk into the microphone please.

Attorney Ruitenberg: What's your name and address sir?

Mr. Hoag: Richard Hoag

Attorney Ruitenberg: Address?

Mr. Hoag: 895 Stryker's Road. May I start, okay?

Vice-Chairman Gary: Yeah.

Mr. Hoag: Uh, we've had, uh, situations with dogs in that area before, uh, that the previous people that lived there, uh, with the dogs that bark and they're up all night and everything like that, and it lasted for a long time. Now, I have nothing against these people, I don't know these people whatsoever, I don't even know where the, the lines are going to be, as you mentioned. However, the main thing that I hear is Pits Bull, Pit Bulls and I'm scared to death of Pit Bulls and I don't how many of you have ever seen or, or gone on the computer and take a look at these things and what these things will do. The other gentlemen mentioned about, uh, uh, people getting off the school bus. Not, not only that, but other times there are a Mr. Hoag: lot of kids go by there; there's bicycle people; there's other people walking other, other dogs; how do we know that those Pit Bulls are going to be contained?

Chairman Gary: Well, I, I think in and of itself, the fence is testimony to that. Um, and, and the fact that, uh, Mr. Williams wants to extend the height of the fence, seems to me, uh, to exhibit his willingness to try and contain the dogs.

Mr. Hoag: Any place, uh, they're going to be, uh, openings?

Chairman Gary: Well, there are gates, but obviously they're going to be closed when, when the dogs are in the yard.

Mr. Hoag: Hopefully.

Mr. Williams: 24/7.

Chairman Gary: Well, um, you know, I can't speak beyond that, but, um,

Mr. Hoag: Well, it's a scary situation.

Chairman Gary: I, I understand.

Mr. Hoag: We've had dogs get, get loose before.

Chairman Gary: Uh huh.

Mr. Hoag: And Gus, you know that too, but, uh, it's, it's a nasty situation and to do something with a Pit Bull is, you know, I going to have to be afraid to walk out for my paper. Look, look to the side to make sure nobody's there.

Chairman Gary: Yeah, but as, as, as I said, I, I, I really think what Mr. Williams is trying do is to, you know, contain that to, you know, to make a point of that not happening. With, with the fence, it, it, um, it seems to me that a fence would actually be more secure than not having one, so. Uh, that's just my take on it.

Mr. Hoag: Well.

Chairman Gary: You know, I, I can't tell Mr. Williams not to, I mean to get rid of his dogs.

Member Bittone: Mr., Mr. Williams is here seeking relief from a variance for a fence height, not about the breed of his dogs or what kind of dogs he can have.

Mr. Hoag: But he's not concerned, concerned about the dogs.

Chairman Gary: Well, well he obviously is.

Mr. Hoag: I am.

Member Bittone: You know every, everyone's concerned for everybody's safety, but the hearing, we can't, we can't, uh, tell people what kind of dogs they can and can't have. That, that's not what this Board is here for. We're, we're here cause Mr. Williams is seeking relief from a variance for, to go from a 4' fence to a 6' fence. That's it.

Mr. Hoag: So Lopat doesn't have anything to say about

Member Bittone: Not this Board.

Mr. Hoag: Not this Board?

Chairman Gary: No sir.

Mr. Hoag: They have it in P'burg, I think, don't they?

Member Bittone: I am not aware

Mr. Hoag: You don't know that? Okay.

Member Bittone: I am not aware of it.

Mr. Hoag: Okay. All you have to do is take a look at the computer sometime. Take a look at Pit Bulls and see what happens. We just don't want anything like that to happen here. Okay?

Member Bittone: Nobody, nobody wants that.

Chairman Gary: Thank you.

Mr. Hoag: Anybody else? Let's go.

(?) Is this a decorative fence?

Attorney Ruitenber: Uh, please come, but if you need to, please come forward.

Chairman Gary: Can you state your name and your address please?

Audience Member: Jack Simonof, 4 Plaza Road, in, uh, Lopat. Uh, we got a letter, you know, seeking a variance, but we have no idea where the drawing or where this fence is going to be located.

Chairman Gary: Are you familiar with the property?

Mr. Simonof: I'm familiar with the property.

Chairman Gary: Okay.

Mr. Simonof: Alright. It's a corner property and it's a, uh, there's not too much frontage on it, so you go up James Avenue and, uh, the reason I'm part familiar with it is, it, you know, they just put, recently put in, upgraded their new septic system and then enclosed the whole area. Alright. It goes down the, down James Avenue and goes always to the back and then goes all the way down to the other end. So, my question is, where is this fence going to be located?

Chairman Gary: Well

Planner Ritter: Oh okay,

Attorney Ruitenberg: No, go ahead George.

Attorney Ruitenberg is showing Mr. Simonof his copy of the survey and explaining where he wants to put the fence is in yellow highlighter.

Planner Ritter: Well, essentially on James Avenue, and the way to look at the property, is that the 6' fence is intended to be installed, starting at the corner of his house that faces, uh, Strykers Road, extend out from there towards James Avenue to, just for the sake of an argument, say 8, 8' of, of the curb line of Strykers, then run up the property till it hits his rear lot line, 6' high and then turn and go along his back lot line. So it's essentially going to encompass the area between the side of his house and his rear lot line; all along James Avenue; there'll be a 6' high fence installed. That's what he's thinking of doing and it will be set about, about 8 1/2' off the curb line. And what the applicant has indicated tonight, is that he's going to up a powder coated fence so it won't be just galvanized.

Attorney Ruitenberg: Vinyl coated.

Planner Ritter: I'm sorry, vinyl.

Attorney Ruitenberg: Yes.

Planner Ritter: Vinyl coated fence, so it will have a, I assume black,

Mr. Williams: Right.

Planner Ritter: a black color to it, uh, rather than just being galvanized steel put up. But it will look like a typical chain link fence. I mean, I, it's, uh, he has by the way, supplied pictures tonight to the Board which

Mr. Simonof: Now there's, you know, I'm familiar with, uh,

(Inaudible – Several talking at once)

Mr. Simonof: I'm familiar with its colorization and, you know.

Planner Ritter: Yeah, okay.

Mr. Simonof: In fact, my neighbor has one, brown, it sort of blends in with. My, I guess, my only concern in seeing this drawing here is that, uh, that why is it, why can't this fence start from the back of his house instead

Planner Ritter: Well, that, that's the question that the Board is trying

Mr. Simonof: Cause there is the bus stop here and we all know what kids do when they go back and forth, you know, with the dogs. So, it would just alleviate that, cause we're gonna here this barking.

Member Rutledge: (Inaudible).

Mr. Simonof: When John mentioned it before, we had the dog over there and he barked 10 hours a day.

Planner Ritter: Yeah.

Mr. Simonof: Alright? And we don't want to go through that again.

Planner Ritter: What you're talking about is exactly what the Board's trying to decide. Whether the fence should fill that space or be pulled back to the face of the house. You know what I mean, along the

Mr. Simonof: Yeah, but see, I don't have a, I know there is a bus stop there and the kids go up and down there. There's a lot of people walk back in through there. It's a fairly, um, let's say, a busy, busy area. They put all the new houses back there. And we got constantly, we got people that walk dogs continually on the outside of that. So I can just see if the fence row and you got dogs back there, we're just gonna have bark, bark, bark, bark, bark.

Attorney Ruitenberg: But he could, he could put that fence, he could put a 4' fence right in the yellow that he is showing now.

Chairman Gary: Yeah.

Attorney Ruitenberg: He is just here seeking variance to make it a 6'

Mr. Simonof: Well, I, I, understand that, but I'm also expressing my concern because of all, you know,

Attorney Ruitenberg: But we have no control over, the only thing the 4 or 6' fence, we can't

Mr. Simonof: You can't do that?

Attorney Ruitenberg: Well, he has the right to put that 4' fence, right, am I correct?

Planner Ritter: Yes

Attorney Ruitenberg: Where, where the yellow line is. He's just here for a variance to make it 6', he just automatically marked James Avenue side.

Mr. Simonof: Well, I guess the next point, for all purposes would be, you know, to go to I guess the other meeting, or whatever it is or, you know, to express my concern of it. So, you know, you're, you're just the Zoning Board I guess, so okay, who orders 6'? Alright?

Attorney Ruitenberg: Uh huh.

Mr. Simonof: I'm just expressing my concern when you're making your decision here, whether that fence can be moved from the front of the house on James Avenue to the back and eliminate some of that, uh, concerns that we have.

Member Bittone: Here, Here's the thing sir,

Attorney Ruitenberg: May I have my copy back?

Member Bittone: if we decided not to approve Mr. Williams request and he decides, "Well, I'm just going to put up a 4' fence and put it exactly where I want to put it",

Mr. Simonof: Uh huh.

Member Bittone: now one of those dogs jumps over a 4' fence because we didn't approve him raising the height to 6', which is protecting

Mr. Simonof: I, I understand that, and I also understand that if he constructs a 4' fence and that dog jumps over that 4' fence and injures somebody, that's a whole, we're going to have a whole big

Member Bittone: That's a whole different

Mr. Simonof: we're, we're gonna have a whole big blow-up over that, okay? So we already understand that concern. Okay and I can understand his concern that he can make the 4' by trying to keep them in

Mr. Simonof (Con't): there, all I'm saying to you is that if before you make your decision, if you can take that fence from the property line on James Avenue, to move it back so that we don't have the problem with the barking dogs and all the people that run, walk up and down that street, alright, to minimize our concern of all, you know, the noise and the barking that's going to come from that.

Member Bittone: Uh huh.

Mr. Simonof: And I know you can't, he can put it up, alright? We can't stop that. All I'm expressing to you is our concerns about the dogs and the previous owners we had the same problem with. Okay?

Chairman Gary: Okay. Thank you, thank you. I guess without knowing, uh, uh, how, how often the dogs are out, or how oft, I mean, the, um, the extent of their barking, it's, it's kind of a tough

Audience Member: May I speak on it?

Chairman Gary: Yeah, sure. Yeah, come forward.

Good Evening. My name is Sasha Pesad and I live at 893 Strykers Road, Phillipsburg N.J. In regards to our dogs, um, we're not at home that often, saying that we're going to have our dogs outside. Our dogs are not, necessarily, outside consistently. And weather, heat, winter, it's cold, our dogs are house dogs, basically. All we want is to make sure that whenever our dogs go outside, we don't have the panic where, we don't know if somebody's walking down on Strykers Road. We don't if someone's walking down on James Avenue. We want to make sure that if our dogs come outside,

Mr. Williams: Relax.

Ms. Pesad: we're able to contain them and make sure that we don't have an issue of them running after someone, injuring someone or anything like that.

Chairman Gary: Sure.

Ms. Pesad: So our dogs are maybe outside for 10 minutes a day, periodically, so, and the most you hear our dogs bark is if they see a rabbit or a deer. You rarely ever hear our dogs bark. So

Chairman Gary: Yeah.

Ms. Pesad: in terms of that, if you think that we're going to leave our dogs outside, we don't do that. I'm sorry. (she is crying).

Chairman Gary: Okay, that's o, that's okay. We really, we can't, um, base, uh, our

Mr. Williams: Right.

Chairman Gary: find, uh, I mean our, our thoughts on, uh, previous owners or what, uh, the previous dogs, how much barking the previous dogs.

Attorney Ruitenberg: But there are ordinances that address noise

Chairman Gary: Correct

Member Horun: (Inaudible – several talking at same time). And things like that, so.

Chairman Gary: And, and they, you know, obviously that would have to be, I mean that would be something that would be considered if they became a nuisance.

Mr. Williams: Right. My dogs are house dogs. They're, they're not outside 24/7. I let them outside, go to the bathroom, we play and have fun and bring them inside. They're not outside 24/7. My dogs are sweethearts. They get along with everybody. They want to play and have

Chairman Gary: How many, how many are there?

Mr. Williams: I have two, a boy and a girl.

Chairman Gary: Okay.

Mr. Williams: They want to go outside and play with, play with each other, you know, so I just let them outside, have fun and bring them back in and that's it. They don't bark. They don't growl at people. They don't attack people.

Chairman Gary: Uh huh.

Mr. Williams: They're sweethearts. Like I said, I have a baby in the house now and best friends, you know what I mean? She's laying on the dogs; flipping, or whatever, having fun. The dogs are not aggressive at all.

Chairman Gary: Uh huh.

Mr. Williams: I just want the, want the extra space so that way the dogs can just go outside and enjoy the yard. I'm not gonna (inaudible) that's all.

Attorney Ruitenberg: I understand you. Is somebody

Chairman Gary: Oh,

Attorney Ruitenberg: Call the person back there.

Hello.

Chairman Gary: Hi.

I'm Matilda Pokrivchak. We live on 3 James Avenue. My husband John and I, uh, we're the property that is bordering Justin and Sasha's property. We have no problem at all with this fence. I, I agree with Sasha and all and Justin, those dogs are wonderful. You wouldn't even know they had dogs. The dogs are out there a few minutes and they're back in. And we've dealt, I can (inaudible) with the Hoag's that, we dealt with situations that were horrible for years. And these are very responsible dog owners. They take care of their dogs. They're right there with their dogs. They take them right back in. I've never Mrs. Pokrivchak (Con't): seen those dogs anywhere else but right by their house. And if they went out of the yard, he would, goes over and gets them right away. He cleans up after them, anything that, you know, a dog owner, a responsible dog owner would do. And we're total, 100%, for this fence, because dogs need to run. They need to be out a little bit and they will be there for those dogs. They're not going to let the dogs jump and, and do anything irresponsible. I have watched them. We've been in our house forty years plus, forty plus years and believe me, these are responsible, good people. So I hope you approve this.

Chairman Gary: Thank you. Okay Gus.

Member Rutledge: I move that we approve the zoning.

Chairman Gary: Well, uh, wait, wait, let's hang on. Is there anyone else here, uh, any, any other comments? Anyone else?

Chairman Gary: Alright Gus, what, uh,

Member Rutledge: I move to approve the

Chairman Gary: Well, be, before, before we do, I'm, I apologize. Anyone else have any, anything to add or any other questions?

Member Unangst: I just have one, one quick question. Just, and, and not that it pertains to all of this, where you have your yellow line down the, that's over on the neighbor's property, it says masonry wall, on the

Attorney Ruitenberg: On the left side there, I think.

Mr. Williams: Right. That was me rushing. It's gonna stay on my side.

Member Unangst: And what's that masonry wall, that's, how high is that? That's your wall or

Mr. Williams: It's my wall, (inaudible) works, little small bricks, that's all it is.

Member Unangst: Okay.

Mr. Williams: Then everything else is grass after that.

Member Unangst: Okay.

Mr. Williams: If you look at the shed back there, the shed in the back corner,

Member Unangst: Uh huh.

Mr. Williams: bricks go behind the shed and then that's it. So I have to take the bricks out and then, you know, install the fence.

Member Unangst: Yeah.

Mr. Williams: Yeah, that's all there is.

Chairman Gary: Okay. Thank you.

Mr. Williams: You're welcome.

Chairman Gary: Any other questions; comments? Uh, it appears to me that Mr. Williams is just trying to be a responsible owner, uh, but, um, having said that, is, uh, is there a motion to approve this relief?

Motion by: Member Bittone

Seconded by: Member Rutledge

ROLL CALL:

AYES: Members Horun, Bittone, Unangst, Rutledge, Woolf and Chairman Gary

NAYS: None

Chairman Gary: You're good to go.

Ms. Pesad: Thank you.

Mr. Williams: I appreciate it. Thank you.

Chairman Gary: Sure.

Member Gary: You said he's good to go, you were going to put a stipulation in there about being out of the right-of-way.

Ms. Pesad: Yeah.

Chairman Gary: Yeah, well I mean, that, yeah, that's, that's going to be part of the resolution I, I believe, right?

Attorney Ruitenberg: Yeah, I'll do a formal, uh, resolution.

Chairman Gary: Yeah, just, just so you know,

Attorney Ruitenberg: There'll be a formal resolution adopted that will include the conditions that we talked about this evening.

Mr. Williams: Right.

Attorney Ruitenberg: Understood? A Memorializing Resolution is what that's called.

Chairman Gary: Okay. Alright, we're moving on. Uh, is there anyone else from the public who has, who would like to speak? Have anything else to say?

PUBLIC COMMENT:

Mr. Simonof: Jack Simonof again. I don't know if this the right place, I thought this was just a, the, uh, regular meeting that, you know, handled once a month. But, let me just say that the, um, the one concern I have though is, I live on Plaza, which is intersected by James and that's a "T". There is no stop sign there. So what happens is, people come from James, shoot down, coming from James, or Strykers, shoot over.

Attorney Ruitenberg: Yeah, can I stop you?

Mr. Simonof: Yeah, thank you.

Attorney Ruitenberg: This is, this is a matter that you want to bring to a Town Council Meeting, not to a, uh. We, we have, this Board has no jurisdiction over traffic issues.

Mr. Simonof: As I said, I, I didn't know if that,

Attorney Ruitenberg : No, that's fine.

Mr. Simonof: if that, this would be the right place

Chairman Gary: No, that's fine. That's fine.

Mr. Simonof: Okay. Um, and

Member Bittone: First Wednesday of the month.

Secretary Coleman: Yeah, I was just going to say that.

Member Bittone: First Wednesday of the month, the Council Meeting.

Mr. Simonof: First Wednesday in the month, same time?

Member Bittone: Same time, yeah.

Mr. Simonof: And, the other, the other issue I have is, you know, correct me if it's the same thing as,

Chairman Gary: We may not be able to.

Mr. Simonof: Um, I live on, I live on Plaza, alright, and when it snows, alright, the way the, the snow plow comes, it always comes up the same way; comes up

Chairman Gary: That's a, that's another issue with Council. Matter of fact, Brian left, (inaudible – several talking at same time).

Mr. Simonof: My point being, is there's no driveways on the other side,

Chairman Gary: Yeah.

Mr. Simonof: but there's always on ours.

Chairman Gary: Sure, I get it.

Mr. Simonof: And guess where the snow gets dumped?

Chairman Gary: Yeah, I get it. Um, well wrong Board though. But that's, but that's a legitimate, uh, you know, concern that you should maybe bring to Council. And Brian left.

Mr. Simonof: But I did talk to him and, uh,

Chairman Gary: Actually he's a good guy. I'm sure he would try to accommodate you.

Mr. Simonof: He said it's, what he said was, "Oh no, that's, you know, that's the way it is".

Chairman Gary: Well, unfortunately, well, I'm not going to comment on it. Yeah, I'm not going to comment on it.

Mr. Simonof: Sometimes, you know, with snow plowing, you know. I have to do the other one.

Chairman Gary: Okay, thank you.

Mr. Simonof: We tried.

Member Bittone: The good news is, you don't have to worry about it for a couple of months.

Chairman Gary: Is there anything, uh, anyone else who has anything else to bring before the Board? Anyone on the Board have anything else? Okay, I would entertain a motion to adjourn.

MOTION TO ADJOURN

Motion by: Member Unangst

Seconded by: Member Rutledge

ALL IN FAVOR:

AYES: Members Horun, Bittone, Unangst, Rutledge, Woolf and Chairman Gary

NAYS: NONE

Respectfully Submitted,

Phyllis D. Coleman
Secretary, ZBOA

Chairman Gary