

**TOWN OF STONY POINT
Zoning Board of Appeals
Minutes November 15, 2012**

PRESENT:

Mr. Morlang
Mr. Keegan
Mr. Casscles (absent)
Mr. Vasti
Mr. Fox
Mr. Porath (late)

ALSO PRESENT:

Dave MacCartney, Attorney

Chairman Wright

Chairman Wright: Good evening. I see by the clock it is 7:00 PM. I will call this meeting of the Zoning Board of Appeals of the Town of Stony Point to order, please rise for the Pledge of Allegiance.

We have our three items on the agenda; two of them are Public Hearings. We will start with #1, a request of Julio Vargas.

Request of Julio Vargas – App. #12-08

A variance from the requirements of the Town of Stony Point Zoning Code Chapter 215, Article XIV, Section 94-D.1-C Less than required rear setback: Required 30 feet provided 20 feet, located at 11 Jerben Drive, Stony Point, New York, for an addition.

Section	20.15	Block	2	Lot	28	Zone	R1
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Chairman Wright: Is a representative for the applicant present? Can you come forward Mr. Vargas and state your name and I will just swear you in.

**JULIO VARGAS
12 Jerben Drive
Stony Point, New York**

Chairman Wright: “IS THE TESTIMONY YOU ARE ABOUT TO PROVIDE, TRUTHFUL?”

Mr. Vargas: Yes.

Chairman Wright: Can you just give us a description of the work you are looking to do on your lot.

Mr. Vargas: Right now I have a little room in the back of the house. When I bought the house about a year and a half ago - its 7 feet out and it’s kind of like a little mudroom and laundry room so I kinda want to expand it. It’s not up to code and it’s not level with the house. It’s crooked, it’s not well built. The roof is having problems. It really needs to be rebuilt so I wanted to make it a little bit bigger; a little bit more level with the house and up to code. The house is very very small. It just has two bedrooms, a small kitchen, a small living room. There is not that much space so I just wanted to add on a little bit more space.

Chairman Wright: I will open the questioning up to the committee.

Mr. Vasti: Mr. Vargas, the space that you want to add, what is the space going to be utilized for, if I may ask?

Mr. Vargas: Laundry, laundry room, back mudroom, and just maybe a little exercise room. Right now it is very very small. It is not level with the house. I can't really...

Mr. Vasti: Okay, thank you.

Mr. Keegan: Just one question – is the existing structure, does that extend out into the rear setback the way it is? In other words does it meet the code now and you are going out an additional 10 feet or...

Mr. Vargas: No, no. It doesn't meet the code because it's about...

Mr. Keegan: How big of an extension are you going...from the house out?

Mr. Vargas: 10 feet and right now it is 7 feet.

Mr. Keegan: That's what my question was. Thank you.

Chairman Wright: Does anybody else have any questions? I have just one quick question – why would you say this Board should approve your request for the variance?

Mr. Vargas: I don't think it has any impact on any of the neighbors. If anything, it will probably make an improvement to the residential area because the house would be up to code. It will be more marketable and just as I said it is a very, very small house and I would like to add just a little more space.

Mr. Vasti: Mr. Vargas, one other question, please. Is there any other area on your property, where you could extend the house where it would not require a variance? Do you have another alternative area that you could bump out to make the house bigger?

Mr. Vargas: Probably the front, but the living room...to put the washer and dryer in front of the living room...

Mr. Vasti: So the area that you are proposing to make larger that area is problematic in its present state; is that correct? You say it's not level, you want to fix it, you want to bring it up to code, is that all correct? So in addition to making the house larger it's going to improve the house dramatically. Is that correct?

Mr. Vargas: Yes.

Mr. Vasti: Okay, thank you.

Chairman Wright: Any other questions. With that I will make a motion to close the Public Hearing.

*****MOTION:** Mr. Vasti made a motion to close the Public Hearing; seconded by Mr. Keegan. Hearing all in favor; the motion was carried.

Chairman Wright: The 2nd on the agenda is a request for the Public Hearing for Dimitri Theofanides.

Request of Dimitri Theofanides – App. #12-09

A variance from the requirements of the Town of Stony Point Zoning Code Chapter 215, Article V, Section 15A-d.1-6: Less than required rear setback: Required 29 feet provided 20 feet, located at 17 Lakeview Drive, Tomkins Cove, New York, for a deck.

Section 10.01 Block 1 Lot 54 Zone RR

Chairman Wright: Do we have a representative here for Mr. Theofanides?

JOHN PERKINS – architect

Chairman Wright: “IS THE TESTIMONY YOU ARE ABOUT TO PROVIDE TRUTHFUL?”

Mr. Perkins: It is.

Chairman Wright: Can you give us a brief description of the work they are planning on that piece of property?

Mr. Perkins: Certainly. I am going to provide you with some paperwork. (handing out 2 copies of the paperwork to the Board) Mr. Theofanides is trying to gain a little better access to the rear yard he has presently. The only real access that he may have from the public space of the existing house is through the second level at the rear of the house which is strictly where the deck is proposed. Now the photographs kind of illustrate how difficult the topography is of the site; there really not an availability on the left side or the right side and obviously out the front is not an optimum location for it either. The other part of the difficulty of the site is the proportions of the site. I actually have a panoramic photograph taken at the site from left to right from Indian Drive. This being the left side (pointing at map) (inaudible John Perkins walked away from microphone.)

Chairman Wright: I will take any questions from the Board?

Mr. Keegan: I have a question. We went up and we took a look at the property so we would be familiar with what is going on, so the proposal is the deck come out and meet with the grade coming down.

Mr. Perkins: Correct.

Mr. Keegan: Okay, so it’s actually going to have a contact where the kids can come back and forth.

Mr. Perkins: Correct.

Mr. Keegan: Is there any provision for a staircase or something coming down to the lower level where... I’m just worried about the kids falling and...

Mr. Perkins: Well the intent is to obviously enclose the deck and then a fence across the...

Mr. Keegan: What about the sides of the deck?

Mr. Perkins: That will meet the retaining wall. If you recall, the backyard there is actually a retaining wall...

Mr. Keegan: Yes.

Mr. Perkins: It is terraced. As you meet the back retaining wall, obviously it is about 5 to 6 feet tall, and on either side of where it extends and dissipates to nothing there will be a fence to meet that. So essentially it will be seamless.

Mr. Keegan: So there are provisions for the safety of the children.

Mr. Perkins: Yes.

Mr. Keegan: Are they depicted on the...

Mr. Perkins: Not as of yet. We are still in the process of kind of grading everything. He is taking it day by day. So once he has established the grade heights and he is in the process of actually constructing a retaining wall. So once the retaining wall work is done we can meet everything seamlessly.

Mr. Keegan: Okay.

Mr. Vasti: Are you going to have a staircase coming off the deck?

Mr. Perkins: There won't be a staircase required if it is constructed the way that we proposed because there be literally one step from the deck to the grading.

Mr. Vasti: Okay, so there is egress.

Mr. Perkins: Yes.

Mr. Vasti: In case of an emergency; that you can't get in the house that you have to get off the deck.

Mr. Perkins: The whole side will be up.

Mr. Vasti: Okay and how is this deck going to be supported in the ground? What is going to hold this deck up?

Mr. Perkins: Piers.

Mr. Vasti: Piers?

Mr. Perkins: There will be piers roughly 2 feet in from the end of the deck that will go below the actual retaining walls that are constructed.

Mr. Vasti: What is the topography of the ground...?

Mr. Perkins: I think there is a photograph on there of the rear. There two 4 foot retaining walls that fork off at the rear of the residence.

Mr. Vasti: So you will be able to use an (inaudible) – is there blasting?

Mr. Perkins: No.

Mr. Vasti: Okay.

Mr. Perkins: Most of it will be backyard so it will be pretty easy digging.

Mr. Vasti: How high up is the fence going to be?

Mr. Perkins: It should be 4 feet at a minimum.

Chairman Wright: Is the fence depicted in any one of those pictures?

Mr. Perkins: Not as of yet. I don't want to place him in a position where he is obligated to supply the specifications for it, but he intends to put a fence there. It is in his best interest to do so since he has two small children.

Mr. Vasti: Was there ever a deck there to begin with?

Mr. Perkins: No.

Mr. Vasti: So this is new.

Mr. Perkins: Yes.

Mr. Vasti: If you can help me understand, what is creating the need for the variance? It seems like, I was up there, it seems like there is a lot of property around in the back of the house.

Mr. Perkins: The property behind him is actually owned by Tolake Corporation. The lot size is strictly complying. (inaudible – walking away from microphone)

Mr. Vasti: It is pre-existing non-conforming.

Mr. Perkins: Correct.

Mr. Vasti: Correct. Now the deck – is the deck going into any sort of conservation easement? Are there any easements where the deck is going?

Mr. Perkins: Not to my knowledge. There was an easement on the lots behind.

Mr. Vasti: So some of those homes the property...

Mr. Perkins: Behind.

Mr. Vasti: Behind. So then this is encroaching on their property; it's just oversized for the bulk requirement.

Mr. Perkins: The deck – the rear setback.

Mr. Vasti: Okay, thank you.

Mr. Porath: I know the lake community has a...they govern themselves to a certain degree. Is there any conflict with this plan with the lake community? I don't know if that necessarily impacts our decision, but I just wanted to...I guess my question is is there a chance that we would be in conflict with the lake or...?

Mr. Perkins: Not to my knowledge there is no conflict with any of the by-laws. If it were in a conflict, it might exist at the location of the deck and create at the rear of the house would pretty much dissipate the possibility of that?

Chairman Wright: What would the benefits to the community be for providing relief for this request?

Mr. Perkins: The benefits for the community as a whole might be just atmospheric for the fact that he will be able to better utilize the outside space of his house. For example, if you were to drive around his house right now his house, you look in front of it, is very high up off the ground. It is about 8 feet or 10 feet at the front. Where if he has this deck, he can obviously have the children outside and playing and create more of a friendly atmosphere.

Chairman Wright: Is there other construction going on in the house at this point?

Mr. Perkins: He is replacing the seepage pits at the front yard. Those failed.

Mr. Vasti: Does the owner of the home intend to use the area beneath the deck for storage?

Mr. Perkins: No. It's actually too small. I don't know if the front is actually represented.

Mr. Vasti: Are there any windows that will be under the deck that will be obscured by it?

Mr. Perkins: They are so far down, roughly 4 feet below the deck, but they will be covered by the deck.

Mr. Vasti: Are those windows, egress windows, into the basement?

Mr. Perkins: Not to my knowledge.

Mr. Vasti: I would like to get clarification on that. Is there a walk-out into the basement?

Mr. Perkins: There is actually, that's the first floor. There is no basement on this.

Mr. Vasti: So this is a first floor landing, livable space and the deck will obscure the window.

Mr. Perkins: The deck will obscure the window, above.

Mr. Vasti: Not below. Nothing under it.

Mr. Perkins: Nothing under it. The egress won't be interrupted as far as a transition from the house to the grade.

Mr. Vasti: So the windows above the level of the brick?

Mr. Perkins: The windows are below the level of the brick.

Mr. Vasti: That's what I am concerned about. Will that block egress from that window if somebody has to get out in a fire?

Mr. Perkins: No. Again you will have roughly, essentially if you have an 8 foot ceiling that you egress, a building if that 8 foot ceiling is still at the deck level...

Mr. Vasti: So the deck is high enough away from the window that somebody could climb out of that window.

Mr. Perkins: Correct. That's the way the retaining walls are constructed so there is a landing.

Mr. Vasti: That is one of the things that concern me there in the back.

Chairman Wright: Any other questions from the committee?

Mr. Fox: Where it is supposed to come out on the landing, how much room do they have back there to the next tier?

Mr. Perkins: The next tier from the egress windows?

Mr. Fox: Where the deck will come out to? It's coming out level with the first...

Mr. Perkins: The deck is coming out 12 feet. The first landing is roughly 4 feet. The second landing is roughly 4 feet. So there is a 4 foot landing that has roughly 8 foot clear area. Then a 4 foot landing that is roughly 4 foot of clear area.

Mr. Keegan: I have one question – is there a deck there now?

Mr. Perkins: No. Well yes. The owner actually went through the process of starting to build the deck and then realized that he was not in compliance and applied for a permit and so what you see there is actually the proposed deck.

Mr. Keegan: Okay.

Chairman Wright: Any more questions from the committee? If not, I will take a motion to close the Public Hearing.

*****MOTION:** Mr. Morlang made a motion to close the Public Hearing; seconded by Mr. Fox. Hearing all in favor; the motion was carried.

Chairman Wright: The third item on the agenda is the minutes of the October 18, 2012, meeting.

*****MOTION:** Mr. Vasti made a motion to accept the minutes of October 18, 2012; seconded by Mr. Porath. Hearing all in favor; the motion was carried.

*****MOTION:** Mr. Fox made a motion to adjourn the meeting of November 15, 2012, seconded by Mr. Keegan. Hearing all in favor; the motion was carried.

Respectfully submitted,

Kathleen Giordano
Secretary
Zoning Board of Appeals