

MINUTES OF THE REGULAR MEETING OF THE AMBERLEY VILLAGE  
BOARD OF ZONING APPEALS HELD AT THE AMBERLEY VILLAGE HALL  
MONDAY, JANUARY 5, 2009

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 5, at 7:00 P.M.

The Clerk called the roll:

PRESENT: Jon Chaiken, Chairperson  
Larry McGraw  
Susan Rissover  
Scott Wolf

ALSO PRESENT: Bernard Boraten, Village Manager  
Stephen Cohen, Village Solicitor  
Nicole Browder, Clerk

ABSENT: Elinor Ziv

Mr. Chaiken asked if there were any additions or corrections to the minutes of the December 1, 2008 meeting that had been distributed. Mr. Wolf moved to approve the minutes as submitted. Seconded by Mr. McGraw and the motion carried unanimously.

Board of Zoning Appeals Case No. 1034

Mr. Chaiken announced that the Board would consider a request from Mr. Harold Guttman for a front yard setback of 65 feet for a new home to be built at 3211 Fairhaven Lane, which would require a variance of 13 feet as it relates to the zoning regulation that requires all structures comply with the minimum lot area, lot width, yards and distances from lot lines and dwellings. Mr. Chaiken invited the applicant to present his case to the Board.

Mr. Guttman explained that he would like relief of the required 78 foot setback due to the configuration of the adjacent homes which are located very close to the side property lines. He stated that he felt it would be less appealing to the neighbors to have this new home built at the 78 foot setback when a setback of 65 feet would allow more space among the adjacent homes.

Mr. Guttman also pointed out that there are stormwater drainage issues on the property that would be more efficiently addressed if the home could be built closer to the street. He also expressed that he felt since most homes in the Village have a front yard setback requirement of 50 feet that 78 feet would be excessive.

Mr. Chaiken clarified to Mr. Guttman that it appears that there is not a problem with being able to meet the 78 foot front yard setback. Mr. Guttman agreed and stated that his variance request was to appeal to the neighboring property owners by keeping the new home furthest away from those adjacent homes and to address storm drainage issues.

Mr. Wolf inquired as to whether or not any storm drainage tests have been performed. Mr. Guttman reported that none have been officially conducted, however, neighbors have informed him of the ponding issues on the property.

Mr. Boraten informed the Board that it was his understanding that the intent of the code was relative to houses along a street that all faced the street front and so the averaging of the front yard setback enabled regulation so that the street view was not blocked in either direction. He stated that the code does not accommodate housing facing in opposing directions. Mr. Boraten stated that he felt there should be some flexibility in this particular instance neither the Village nor the applicant would be gaining anything by adhering to the 78 foot setback.

Mr. Chaiken then opened the floor for residents to speak.

Mr. Steinberg, a resident at 7950 Rolling Knolls, expressed his desire to have a continuance in order to have an independent survey completed because he and other neighbors are unclear as to the property lines.

Mrs. Steinberg then stated that she felt all of the street views would be blocked by the two-story home. She expressed her desire to have the home built as close to the street as possible.

Mr. Boraten then passed a map to the audience in order to illustrate the location of the proposed front yard setback.

Mr. Guttman stated that the meeting this evening was to address the front yard setback only, not side property lines. He stated that he would comply with all of the Village requirements, including side yard setbacks.

General discussion among the Board and audience was held regarding placement of the home as it related to the adjacent properties.

Mr. Charles Chambers, a resident at 7975 Willowridge, requested a continuance to also clarify the property boundaries. He stated that he would be directly impacted by the new home. He stated that he would like to have a survey conducted prior to this home being built because his understanding of the property lines when he recently purchased his home was different from the placement of the stakes that Mr. Guttman has put on the proposed home site.

Mr. Chaiken asked Mr. Chambers to examine a map of the lot to gain an understanding of the boundary issue.

Mr. Guttman then stated that he was more than willing to withdraw the variance request this evening. He stated that he is very confident that his survey is correct. He stated that he would be within the code to build the home at 78 feet and that would not be a problem. He expressed that he was making an effort to accommodate the neighboring properties by moving the home further away from the other homes.

Ms. Hazen, a resident at 3200 Fairhaven, stated that she lives across the street and when the Zimbach's moved into their home at 7975 Willowridge they installed a lot of drain tile to address the storm water in the area. She stated that she would like to know how this new home would be

built upon what she considered a lake. She stated that if Mr. Guttman proceeds to build the home, she would like to know how he would propose to change the topography.

Mr. Guttman stated that he would have his engineer install storm drains on the property that would tie into the current storm drainage system.

Mr. Chaiken stated that the information presented this evening has posed several issues. First, there has been a question of the lot boundaries. He informed the Board and audience that this lot was an established buildable lot in this subdivision all along. He stated that if the stakes are not properly set, that would need corrected. Second, the type of home has been questioned. He stated that the Board does not have the authority or jurisdiction to dictate the type of home built as far as whether it is one or two stories. Mr. Chaiken then stated that it would seem appropriate to move the home closer to the street and the zoning board does have jurisdiction over that item.

Ms. Jamie Klosterman, a resident at 7915 Willowridge, asked if the minimum side yard setback would remain at 20 feet. Mr. Chaiken confirmed such.

Mr. Chaiken then stated that the Village staff thought this variance request for the front yard setback to be reasonable and there have not been any other comments to the contrary this evening from the audience.

Mrs. Steinberg continued to express her dissatisfaction with the type of home being built. Mr. McGraw and Mr. Wolf held a discussion with Mrs. Steinberg regarding the Village's jurisdictional abilities as it relates to architecture and zoning in the Village.

Mr. McGraw moved to approve the variance request as submitted. Seconded by Mrs. Rissover and the roll call showed the following vote:

AYE: CHAIKEN, MCGRAW, RISSOVER, WOLF (4)

NAY: (0)

ABSENT: ZIV (1)

There being no other business to discuss, Mr. Wolf moved to adjourn. Seconded by Mrs. Rissover and the motion carried unanimously.

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Nicole Browder, Clerk

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Jon Chaiken, Chairperson