

Zoning Board of Appeals Meeting  
December 19, 2022

Present: Acting Chairman Dan Welker, Robert Doss, John Ceresoli, Dan Newton, Paul Adams, Marilyn & Karl Anderson, Peter & Kasey Terzella, Scott & Courtney Barnard, Russ Wehner, Sarah Schiralli, Jill Doss

Absent: Bill Nickal

Acting Chairman Dan Welker called the re-hearing public hearing for Schiralli at 132 Naymik Drive to order. The Board is re-hearing the request of the Schiralli family for an amendment to the request for variance for the front yard setback. Originally, (September 2022) the Board had granted a two-foot (2) variance for front yard setback for the construction of a front porch for the Schiralli's. After the granting of this variance, it was discovered that the variance request should have been for three-feet (3) to allow for the construction of the front porch addition to the Schiralli's residence. It appeared that there was some confusion in the completion of the application/request initially. The Acting Chairman asked if there were any further comments from the applicant, audience or Board. No one spoke. The public re-hearing for Schiralli's was closed at 7:02 p.m.

Acting Chairman Dan Welker called the variance public hearing to order for Peter & Kasey Terzella of 528 Tuscarora Road.

Mr. Terzella explained that he applied for a pool permit from the Village with an 11 foot side yard setback shown for the west side yard. He also had a fence installed and a rock retaining wall installed at the outside of the fence area in the rear yard. He had a catch basin installed in his yard more recently to collect the water draining from his roof which is installed 2-3 feet underground. John Ceresoli asked about the shed that is shown. The shed was beat up so it has been removed according to Mr. Terzella. When complaints were received about the retaining wall being on the neighbor's property (Barnard), Mr. Terzella explained that he did remove some of the rocks from the wall (this was apparently sometime in early November). He also advised that he did have some erosion barriers placed (landscaping fabric and some trees to help the water situation). He commented there is a swale at the back of his property between his property and the Anderson property. Mr. Terzella did have a survey done of his property when the side yard setback was questioned. It shows the rock retaining wall on the Barnard property and the actual side yard setback of the pool to be 9'5" and 8'9" from the side yard and not the eleven (11) feet shown on the original building permit application which showed twelve (12) feet and that was crossed out and changed to eleven (11) feet, but not initialed.

Acting Chairman Welker opened the hearing to the public for comment. Scott Barnard noted that he is not opposed to granting a variance to the Terzella's and he has attempted over the last two years to work out the issues with the Terzella's. He commented that the erosion from the added water on his property, the contractor using his property (which he did give them permission to use with the understanding that they would repair and they didn't do a good job), the retaining wall being placed on his property, the loss of his fence as it was used to hold the dirt berm from the Terzella project and was damaged so badly that he removed it, the pool company had dug a shallow hole for in ground pool placement and in the wrong location, the change in elevation from the Terzella's to his property is causing continual and additional water

run-off on his property, the fire pit in his back yard is sunk in the ground and portions of their backyard isn't usable because of the water run-off, the dirt berm that was placed by the Terzella's has been continually eroding and has almost completely collapsed are some of the issues they have been dealing with over the past 2 1/2 years. The change on the original application from 12 feet to 11 feet is another issue. How did that happen and why wasn't the change initialed? The Terzella's have an "oasis" for a back yard and his yard is a mess. Mr. Barnard reviewed the timeframe of permit issuance and questioned a change on the permit paperwork from 12 feet to 11 feet with no initialing. He asked why the change was not initialed. He advised that he had contacted the Code Officer when the drainage and other issues had come up and why the pool permit was issued April 2021 and expired in October 2021 and a certificate of compliance being issued by the Code Officer when there was clearly some issues with the installation of the pool and fence. Mr. Barnard commented that no measurements were taken by the Code Officer before issuing the Certificate of Compliance to the Terzella's. Mr. & Mrs. Barnard commented that they are coming up on three summers of dealing with this issue. They shared photographs with the Board from the initial start of the project to photos taken last week and what they are dealing with. Mr. Barnard asked about the side yard distance. John Ceresoli commented that the ten (10) feet is required by Zoning Law and the twelve (12) feet is a construction issue. Ten foot (10) is the required side yard setback. Mr. Anderson commented that he hoped the issue could be worked out between the two neighbors. Mrs. Anderson explained about the drainage swale that was installed by the subdivision developer that runs between their property and the Barnard's and Terzella's as well as other properties in this area. There is a water issue and that is why the swale was put in place. During the wet seasons, they can't mow a portion of their lawn because of the existing water in the area. The area is wet. The Board reviewed the SEQR form and they had concern about one of the questions on the form in regard to water run-off and drainage. The Board discussed tabling the hearing until January meeting to get input from the Code Officer and Village legal Counsel. Mr. Barnard shared a few more photos of his property. Mr. Terzella shared a few photos dated September 14, 2022, but none of the photos were left with the Board. The Board discussed the fact that Tarson Pool Company, dug the hole for the pool and didn't dig down very far so the Terzella's pool is higher than the existing land in the area. Mr. Terzella commented that he had contacted the pool company about the installation and they stated to him that they have no liability in the matter. The Board members commented that the pool was placed in the wrong location. With no further comments or discussion, the public hearing was closed at 7:40 p.m.

Acting Chairman Welker opened the regular meeting at 7:40 p.m.

#### Minutes

The Board members reviewed the minutes of November 21, 2022. Upon the motion made by John Ceresoli, seconded by Dan Newton, the minutes of November 21, 2022 were unanimously approved.

#### Schiralli-Re-hearing Public Hearing 132 Naymik Drive

Upon the motion made by Dan Newton and seconded by John Ceresoli, the Board members unanimously approved a three(3) foot front yard setback variance for the Schiralli's at 132 Naymik Drive for construction of a front porch.

Terzella -528 Tuscarora Road - variance request

Upon the motion made by John Ceresoli, seconded by Robert Doss, the Zoning Board of Appeals denies the request for side yard setback variance for Peter & Kasey Terzella of 528 Tuscarora Road. With no further discussion a roll call vote was taken, as follows:

Dan Newton	yes
John Ceresoli	yes
Paul Adams	abstain
Robert Doss	yes
Dan Welker	yes

Motion carried. Variance request denied.

No action taken for SEQR for the Terzella application.

Variance Application - Language

The Board briefly reviewed the proposed language change for the variance application. The Secretary will re-type the page relative to the change, which will include requiring a survey.

Scott Barnard requested he be advised when the letter to the Terzella's is sent.

With no further business, meeting adjourned at 8:20 p.m.

Respectfully submitted,

Jill A. Doss  
Secretary to ZBA