

**MINUTES OF REGULAR ZONING BOARD OF ADJUSTMENT
MEETING HELD ON TUESDAY, SEPTEMBER 12, 2023**

Vice Chairman Zapf called to order the regular meeting of the Board and announced the meeting was duly advertised in compliance with the Open Public Meetings Act by notice sent to the Daily Record, Suburban Trends, and posted on the Bulletin Board and website at Borough Hall. All stood for the Pledge of Allegiance.

PRESENT: DUBOWSKY, KENNEDY, LUCIANO, WOLFSON, ZAPF, AND VILLAVICENCIO (ALT. #1)

ALSO PRESENT: PETRESKI, ENGINEER AND LIPARI, COUNSEL

ABSENT: BYRNE, AND ZALEWSKI

Vice Chairman Zapf stated the first order of business is the approval of the August 8th, 2023 meeting minutes. Does anybody have any notations?

Mrs. Kennedy stated I just have one on page 3, Item k., it should be just the past tense, memo prepared.

Vice Chairman Zapf stated okay.

Ms. Ward stated okay.

Vice Chairman Zapf stated I did not have any notations. Does anybody else have anything? I'll make a motion to approve the minutes with the one correction as noted.

Mr. Luciano seconds.

Ms. Ward stated everyone can vote on the minutes.

Roll call:

YES: Zapf, Luciano, Dubowsky, Kennedy, Wolfson, and Villavicencio (Alt. #1)

NO: None

ABSTAIN: None

ABSENT: Byrne and Zalewski

Ms. Ward stated they are approved.

Vice Chairman Zapf stated okay. Next order of business is Variance Application #2023-02 by Jovanny Gonzalez and Adriana Faundez on property known as Block 3, Lot 55.01 on the municipal tax map also known as 16 Mabey Lane. This is a consideration of the resolution which is a memorialization. Does anybody have any changes or corrections? I know Joan had a couple.

Ms. Ward stated on page 2 under e., I just added updated July 20, 2023. Mike had no knowledge that the certified list was updated. Then f., the Zoning Permit # was 203 but it should have been 2023. Then little j. it says, Google Earth Aerial, image date and I just put a d on dated, and other than that the resolution was good.

Vice Chairman Zapf stated I did not have any notations or corrections. Anybody else? Does somebody want to make a motion?

LINCOLN PARK ZONING BOARD OF ADJUSTMENT

RESOLUTION

Variance Application #2023-02

WHEREAS, Jovanny Gonzalez and Adriana Faundez (the “Applicant”) filed an application before the Lincoln Park Zoning Board of Adjustment (the “Board”) with regard to property known as 16 Mabey Lane, Lincoln Park, New Jersey, also identified as Block 3, Lot 55.01 on Tax Map Sheet 29 (the “Property”); and

WHEREAS, all persons located within 200 feet of the Property have been notified according to law and a public hearing was held before the Board on August 8, 2023; and

WHEREAS, based on the hearing and a review of all the testimony and documents submitted in conjunction with the application, the Board makes the following findings of facts:

1. The Property is located in the R-15 Residential Zone with a frontage on both Mabey Lane and West Drive. The front door and driveway are both accessed from Mabey Lane. The front yard between the house and West Drive functions as the rear yard for the property owners. The subject property has a lot area of 12,078 SF where a minimum of 15,000 SF is required and a lot frontage of 100 ft on each street where a minimum of 100 feet is required.

2. The subject property is improved with a two-story single-family residence, a detached garage, shed, and gazebo. No changes are proposed to any of the existing structures.

3. The Applicant is proposing to construct a solid, white six (6) foot tall vinyl PVC fence in the front yard facing West Drive with one four (4) foot wide gate. The fence will turn and continue partially along the side yard lot lines.

4. A variance is required for the construction of a six (6) foot tall fence between the right-of-way (West Drive) and the principal building where a fence of no more than four (4) feet in height is permitted pursuant to Borough Code §28-4.5(C)(2).

5. The Applicant submitted to the Board for its review the following material:

- a. Standard Development Application Form (Section 17-82.1-A), signed by the Applicant on May 10, 2023;
- b. Checklist for General Information (Section 17 Attachment 1:1), dated May 11, 2023;
- c. Checklist for Board of Adjustment Variance Application (Section Attachment 1:4), dated May 11, 2023;
- d. W-9, Request for Taxpayer Identification Number and Certification, signed by the Applicant, dated April 17, 2023;
- e. List of Property Owners within 200 feet, certified by the Borough Assessor on April 25, 2023; and updated July 20, 2023.
- f. Zoning Permit Application #2023-35Z, signed by Christopher Taormina, Zoning Officer, denied April 6, 2023;
- g. Property Survey with hand markup made by the Applicant, enclosing one (1) sheet, prepared by Wm. F. Zimmerly & Associates, dated September 21, 2020, no revisions;
- h. Fence Variance Plan, prepared by the Applicant, Jovanny Gonzalez, dated July 1, 2023;
- i. Contract, prepared by Freedom Fence, dated April 29, 2023;

- j. Google Earth Aerial, image dated April 30, 2022, stamped received May 11, 2023; and
- k. Applicant's Offer to Abutting Property Owners, Mr. Richard Lucas indicated that he is not interested in selling any of their property to the Applicant, stamped received May 11, 2023.

6. Jovanny Gonzalez testified that a six (6) foot tall privacy fence was necessary because neighbors are constantly walking dogs on and across his lawn; he needs a six (6) foot fence for privacy because the slope of the property and the abutting street allows vehicles and pedestrians to see in his yard,.

7. The Applicant acknowledged and agreed to stake out the corners of the lot prior to erecting the fence and to obtain an as-built survey following erection of the fence.

8. No member of the public testified during the public portion of the hearing.

9. The Board concluded after reviewing all of the testimony and documents included with the application, that by reason of the exceptional narrowness, slope and/or configuration of the Property, the strict enforcement of the provisions of the ordinance would result in exceptional and undue hardship upon the Applicant. Further, pursuant to N.J.S.A 40:55D-70(c)(2), the benefits of the deviations from the zoning ordinances outweigh any detriments. The Board also concluded that this approval will not substantially impair the appropriate use or development of any property and will not pose a threat to the public health, safety, and general welfare.

10. The application is consistent with the intent and plan of the zoning ordinances of the Borough of Lincoln Park and will cause minimal, if any, impact on the neighborhood and surrounding properties.

NOW, THEREFORE, BE IT RESOLVED, that based upon the testimony and facts as found above, the Lincoln Park Zoning Board of Adjustment does hereby grant the application and the requested variances subject to compliance with the following terms and conditions:

1. This Resolution is subject to any comments offered by the Borough's Engineer and on the application and the plans. The Applicant shall comply with any requirements imposed by the Borough's Engineer and Construction Official with respect to this application or the plans.

2. The Applicant shall comply with the comments set forth in the Board Engineer's report dated July 13, 2023.

3. There shall be no changes to the approved plans, including site plans, accessory structure locations contours, spot elevations, stormwater management facilities, etc. If field

conditions necessitate deviations from the approved plans, then all work shall stop until revised plans can be prepared by the owner's professionals and submitted to the Borough Engineer and Building Department for review and approval prior to constructing any modifications.

4. The Applicant shall stake out the corners of his property prior to erecting the fence to ensure that the fence will be located entirely on the Applicant's property and will not encroach on any neighboring property.

5. The Applicant shall provide a Project Completion Report and four (4) signed and sealed original copies of an as-built topographic survey, prepared by a licensed professional land surveyor.

6. The as-built survey shall provide the location of all above-ground and below-ground improvements, including septic systems, wells, drainage structures and utilities.

7. All other State, County, and Municipal regulatory agency reviews that may be necessary must be obtained.

8. The Applicant is hereby notified of the following Borough Code that is incorporated into this Resolution:

§ 17.3.9. Expiration of Variance.

Any variance from the terms of Chapter 28, Zoning, hereafter granted by the Zoning Board of Adjustment permitting the erection or alteration of any structure or structures or permitting a specified use of any premises shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variance or unless such permitted use has actually been commenced within one year from the date of entry of the judgment or determination of the Zoning Board of Adjustment, except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Zoning Board of Adjustment to the governing body, or to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding, except, further, in the case of a variance which also involves a subdivision or site plan approval, the variance shall extend for the full period of preliminary or final approval or any extensions thereof pursuant to the Act.

9. Before a Certificate of Approval may be issued, the Applicant must comply with all conditions of this Resolution.

10. The Applicant shall maintain a current escrow account until final inspections are completed. Any remaining balance in the Applicant's escrow account will not be returned until the Project Completion Report has been properly submitted and accepted. The Applicant must submit to the Board Secretary a status report from the Borough Finance Officer confirming that all Borough fees for the Property and this application are current.

11. All other rules and regulations of any governmental agency having jurisdiction over

the Property shall be complied with, including but not limited to the payment of all taxes, water and sewer charges, and application fees and/or charges. No alteration of any construction plans submitted with this application and on file with the Board shall be permitted without the Board's prior written approval.

Mr. Dubowsky moved it.

Mr. Zapf seconds.

Roll call:

Yes: Dubowsky, Zapf, Kennedy, Luciano, Wolfson, and Villavicencio (Alt. #1)

No: None

Abstain: None

Absent: Byrne and Zalewski

Ms. Ward stated okay adopted.

Vice Chairman Zapf stated the only other business that might arise is we need another alternate so just keep your ears to the ground

Ms. Ward stated if anyone knows someone who would be interested, please have them send their resume' to the Council via Courtney because that is a Council appointment.

Vice Chairman Zapf asked any other business

Ms. Ward stated none.

Vice Chairman Zapf made the motion to adjourn.

Mr. Luciano seconds.

Meeting adjourned 7:06 P.M.

Respectfully submitted:

Joan Ward, Secretary

Thomas Zapf, Vice Chairman