

MINUTES
ISLAND HEIGHTS PLANNING BOARD – April 11, 2019

The regular meeting of the Island Heights Planning Board was called to order by Vice-Chairperson MacNeal at approximately 7pm. Following the flag salute roll call was taken and present were: Bob Baxter, Sean Asay, Bob MacNeal, Donald Roberts Frank Wetta, Karen Kier, and Terry Brady. Absent: Bill Noble, John Bendel, Jon Brodbeck, Joe Connors, and Lynn Pendleton.

Motion to approve minutes from January 10, 2019 was made by Ms. Kier second by Mr. Roberts.

Roll Call Vote:

Mr. Noble	Absent	Mr. Connors	Absent
Mr. Asay	Yes	Mr. MacNeal	Yes
Mr. Baxter	Yes	Mr. Roberts	Yes
Mr. Brodbeck	Absent	Mr. Wetta	Yes
Mr. Bendel	Absent	Ms. Kier	Yes
		Ms. Pendleton	Absent

Mr. Brady swore in Alexander VanHaak of 115 VanSant Ave. Mr. VanHaak asked for pictures to be marked into evidence of his property, 3 in total which Ms. Prior did A-1 through A-4. Mr. VanHaak explained that there is a deep hole on the side of his property and if it wasn't there he could go straight across on the frontage of his property. He further explained that since it goes out past the front of his property and since there is a swimming pool he would like to put up a five foot fence. Mr. VanHaak said by reviewing the pictures you can understand. Mr. VanHaak had another picture marked into evidence; A-4 of a fence that is just down the street as you exit it is someone with a similar situation where they have a five foot fence beyond the front of their property. He further stated that it creates more privacy and further explained the picture. Mr. Brady clarified that the first 3 photos are his property and the 4th was someone else's. Mr. VanHaak said yes.

Mr. Baxter stated he has gone out twice and has questions. When he views the lot he sees the pool which he would call an above ground pool. Mr. Baxter said that the applicant made the decision to put the pool parallel to his house which Mr. VanHaak said yes. Mr. Baxter said if you had put the pool in more towards the rear approximately 15' back then you would not be before us because you could put in a six foot fence. Mr. VanHaak said no because of the topography. Mr. Baxter explained further if the pool was installed more towards the rear and the fence. Mr. VanHaak said if you looked at the property it would stifle it. Mr. Baxter said because you pool is in a hollow, a four foot fence which you do not need a variance for, would give you plenty of privacy in the sense that a person would kind of have to walk up and peer over your fence. Mr. Baxter said that the four feet fence across the front meets our zoning code because we don't want a wall but if we gave you a variance for four foot along the side that you would need where the parking lot is wouldn't that accomplish the privacy. Mr. Baxter said we would not have to break our zoning ordinance about the fence because of the unique thing about your pool. Mr. Baxter further said he understands that the four foot fence would serve for privacy and the he understands that. Mr. VanHaak said he would like to show some more pictures and he understands what Mr. Baxter is saying. Mr. Baxter said the idea is if we give you the variance for the four foot fence along the side accomplishes this because his concern is along the street and creating a wall affect.

Mr. VanHaak presented a picture of the fence he wants; which Mrs. Prior marked into evidence as B-1. Mr. VanHaak explained that the fences he has liked were mostly 54" and they did not work out. This particular one happens to be 60" and solid wood and if it were a 4' fence it would not look right and be out of proportion. Further discussion held on this with Mr. Baxter and Mr. VanHaak.

Mr. Roberts asked about the picture that was marked into evidence as C-1 that shows the various heights of the fences 4'-6'. Mr. Roberts stated that one of the nice things is the space between the street and the pool where trees could be planted such as evergreens that will grow quickly and assist in the privacy along with adding to the aesthetics of the yard. Mr. VanHaak said if he plants trees they could grow too tall and not allow sunlight to the pool.

Mr. Wetta asked if he could put in arborvitae that you can buy at a certain height and do not grow very high. Mr. Wetta said you can purchase them at different heights and found that effective at his personal dwelling. Further discussion held on a four foot fence and arborvitae.

Ms. Kier asked if he was seeking the variance for privacy or the type of fence. Mr. VanHaak yes we are talking 6" above what is along side of his property and in keeping with the rest of the town where there are a lot of 5' fences. Mr. VanHaak said he does not like the way the fence looks at 4'. Further discussion held on the type of fence and the aesthetics were held.

Mr. Roberts asked if he does not get the variance what type of fence would he put in. Mr. VanHaak said he may not put one in at all he does not understand the difficulty of the difference between a 4' and 5' fence. Mr. Asay asked how long has this pool been there. Mr. VanHaak said a year. Mr. Asay asked if there was a fence around it now. Mr. VanHaak said no and there does not need to be. He further explained that it is up to code and the height does not require one and asked for the pool guidelines to be marked into evidence which Mrs. Prior did as D-1. Mr. VanHaak further explained how the fence would be installed to the church fence but not down the side as the church does not want it up against their fence and he does not want to leave a gap and create an alleyway. Further discussion was held on the side fence.

Mr. VanHaak explained about the ladder and enclosure for his pool which he passed inspection. He further explained that he did the pool, going to do the fence and then will be building a deck. Further discussion held on the pool and regulations for fence.

Mr. Brady asked for clarification for his purposes. Mr. Brady said that the engineers letter, which Mr. VanHaak should have a copy, states that one of the variances is maximum fence height along the street line 4' allowed 5' proposed. Mr. VanHaak said yes. Mr. Brady said that is the variance that you are keeping. Mr. VanHaak said yes but the side line he is not concerned with. Mr. Brady said the second one the maximum height along the side lot lines in the front yard area is 30" and 5' is proposed is the one Mr. VanHaak is eliminating. Mr. VanHaak said yes and again explained the reason why with the church and creating an alleyway.

Mr. Wetta said that the 4' fence along with the arborvitae behind it would seem to solve the problem without having to overrule the ordinance. Vice-Chairperson MacNeal said there are three reasons that are exceptional that are the narrowness, shallowness or slope of a specific piece of property; exceptional topographic condition or physical features uniquely affecting a specific piece of property. Mr. VanHaak said he meets all of that. Vice-Chairperson MacNeal said yes and no and continued listing the last reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property. Mr. Brady said that the statute goes on to say that the strict application of the regulation would result in a peculiar and an exceptional practical difficulty to or exceptional undue hardship upon the property owner.

Mr. VanHaak said if he put a fence straight across his property he would be allowed to put up a 6' fence but because of the slope it is extremely difficult. Mr. Baxter said that after looking at his lot that it was a choice he made because there was room behind it. Mr. VanHaak said if he put a fence behind it that whole other part where the pool is would not be accessible and usable. Mr. Baxter said right but if the pool had been moved 30' towards the rear of the lot you do not need a fence then across the front you would just need a privacy fence which you could put in. Mr. VanHaak said there is a hole in the ground and would like to put up a fence regardless. Mr. Baxter further explained moving it back. Mr. VanHaak said it creates the most practical use of his land and eliminates the hole in the ground that he can't use and by moving it back it eliminates use of his backyard. Further discussion held by Mr. VanHaak and Mr. Baxter on the placement of the pool.

Mr. Wetta said there would be no privacy fence on the church side. Mr. VanHaak said yes he does not want to create an alleyway.

Vice-Chairperson MacNeal opened the public portion of the hearing. There were no questions or comments. Vice-Chairperson MacNeal closed the public portion of the hearing.

Motion to deny the application was made by Mr. Roberts second by Mr. Baxter.

Mr. Baxter said that there is no way even looking at what you demonstrated and a 4' may not attain the privacy you want or be the one that you want but there are 4' fences it would protect you because of the unique thing of where your pool is but it would give you privacy. He further said it may not be the one you want.

Mrs. VanHaak said if you look at the picture of the heights of the fence the 4' fence the people walk by our house all the time and the 4' fence is not high enough. Mr. Baxter said he is short but he can see over a 5' fence. Further discussion held on the fence heights and the topography by Mr. VanHaak and Mr. Baxter. Mr. VanHaak said he does not understand why he cannot get

approval to put up this fence. Vice-Chairperson MacNeal said that the problem is that it does not meet the criteria that the Board is required to deal with. Further discussion was held by the Board and Mr. VanHaak about the hardship and compromise.

Roll Call Vote:

Mr. Noble	Absent	Mr. Connors	Absent
Mr. Asay	No	Mr. MacNeal	Yes
Mr. Baxter	Yes	Mr. Roberts	Yes
Mr. Brodbeck	Absent	Mr. Wetta	Yes
Mr. Bendel	Absent	Ms. Kier	No
		Ms. Pendleton	Absent

Motion to adjourn the meeting at 7:40pm was made by Mr. Wetta second by Ms. Kier. Unanimous Voice Vote.

Respectfully Submitted by Wendy J. Prior