

**MINUTES OF PUBLIC HEARING  
HELD BY THE ZONING BOARD OF APPEALS  
LINCOLN CENTER HEARING ROOM  
MAY 30, 2012**

**MEMBERS PRESENT:** James Stevenson, Chair  
Albert Gionet, Vice Chair  
Robert Haley, Secretary  
Edward Slegeski

**ALTERNATES PRESENT:** Armando Darna  
Sandra Stough (sitting)  
Michael Stebe

**ALSO PRESENT:** James Davis, Zoning Enforcement Officer  
Renata Bertotti, Senior Planner  
Ginger MacHattie, Recording Secretary

The Chair opened the Public Hearing at 7:00 p.m. The Secretary read the legal notice for the application when the call was made.

**PATRICK & PAULA HURLEY** – application #2012-034 – request a variance to Art. II Sec. 1.03.04(c) to reduce the rear yard setback to 18’ (30’ req.) to maintain the existing location of an above-ground pool, and a variance to Art. II Sec. 3.01.01 to reduce the rear yard setback to 25’9” (30’ req.) for a proposed deck at 19 Lenti Drive, Residence AA zone.

Mr. Patrick Hurley, 19 Lenti Drive, distributed photographs for reference to Board members. He explained his application is for a variance to reduce the rear yard setback to 18’ to maintain the pool area. In June 2011, his pool vendor obtained a permit to have a pool installed. Electrical lines were installed from the foundation to the pool, again with an approved permit. Over the winter, Mr. Hurley decided he wanted to add onto the existing deck and applied for permits. Once he filed his application, the inspector discovered the existing deck was not identified on the plot plan submitted. This was an oversight as the deck has been on the house since it was constructed but was not put on the plot plan. Since then, he has been informed by the zoning enforcement officer that he is out of compliance in two areas: the first being the existing pool to the rear line and the second for the deck addition to the rear property line. Mr. Hurley said he could potentially adjust the deck dimensions, which would result in the removal of one variance request.

In response to a question from Mr. Stevenson, Mr. Hurley thinks there probably was not a permit for the original deck. He called the builder but the builder did not return his call.

In response to a comment made by Mr. Stevenson, Mr. Davis explained when the house was originally proposed, a deck was included. The foundation as-built shows only the foundation after it is completed. Typically when Mr. Davis receives an application, he uses the GIS program as part of his review. Unfortunately he was on vacation and the permit was approved because without knowledge of the deck, the pool was considered in compliance.

In response to questions from Mr. Gionet, Mr. Hurley said the current deck size is 12' x 20'. The overall length existing between the deck and the pool is 14' 10.75"

In response to a question from Mr. Haley, Mr. Hurley said he was told the electrical work was inspected and approved.

Ms. Bertotti said this property has public water and sewer so septic is not a concern. She said the reduction to one variance request is progress.

Mr. Davis said, based on the drawing, the applicant would not need a variance for the newly proposed deck but would still need a variance for the pool. Mr. Stevenson noted the final revised plan as submitted is dated May 30, 2012.

In response to a question from Mr. Haley, Mr. Davis said there was a building permit for the pool and inspection of the electrical work. When the application was first submitted, the pool was proposed for its present location and it was approved.

Ms. Bertotti explained that the applicant met the zoning regulations at that point. The existence of the deck moves the rear plane of the house back. However, that information was not known at the time of the application.

Mr. Davis further explained an applicant provides a sketch and gives the proposed setbacks. One question on the application is if any other structures exist that are not shown on the plot plan, and if so, draw them. He said the box for "No" was checked.

Chairman Stevenson asked if any member of the public wished to comment on this application.

Mr. Haley said he spoke with the neighbor across the street from this applicant who wanted Mr. Haley to convey he is very much in favor of this application.

The public hearing on this application was closed.

**MARIOLA WOJTCZAK** – application #2012-047 – request a variance to Art. II Sec. 4.01.01 to reduce the side yard setback to 8' (10' req.) to install a generator at 40 Gardner St. West, Residence A zone.

Mr. Perfecto Valle, 40 Gardner Street West, spoke on behalf of the applicant, his wife. A variance is being requested because the generator is too close to the property line. It is supposed to be 10' from the line and his is five feet, he said. Upon pulling the permit for the plumbing, he found he had to have a permit to put a generator in place. He said the generator is already in place. Mr. Valle said he spoke with his neighbors who have no objection to the location. Ms. Bertotti has asked him for information on the unit's noise levels. He was unable to get the information from Generac but did find some information online which he submitted. The unit will be behind a stockade enclosure, which will muffle the noise level. He said it will only be used for emergency purposes.

Mr. Haley asked the applicant if he considered moving the generator when he found out he was not in compliance. He asked if Mr. Valle had already installed the generator and had it plumbed at that point.

Mr. Valle said it is plumbed now, but at that time he had just finished tying the plumbing together. He said he gave Mr. Slegeski a tour and there is no other place to put the generator on the property.

In response to questions from Mr. Darna, Mr. Valle said the generator can go as close to the house as 12" as long as there are no windows or openings. With windows or a dryer vent, the generator must be five feet from the house. He did not choose to put the generator on the opposite side of the house because it was easier to put it near the gas line. In addition, the other side has a sidewalk and the driveway. Mr. Valle said he can set the timing so the generator runs weekly when it is not an inconvenience to his neighbors.

In response to questions from Mr. Slegeski, Mr. Valle said the generator goes on automatically when the power goes out, but he can disable it.

Chairman Stevenson asked if any member of the public wished to comment in favor of or in opposition to this application.

Ms. Bertotti received a letter from Mr. Scott Ford and Ms. Jennifer DeLuco of 34 Gardner Street West dated May 23, 2012. Mr. Ford and Ms. DeLuco are not opposed to this variance.

Ms. Bertotti said Town staff reviewed this application and there are no outstanding comments.

In response to a question from Mr. Gionet, Ms. Bertotti said all neighbors were notified of this public hearing. She said the neighbors sharing the boundary where the generator is located are the neighbors that wrote the letter stating they are not in opposition.

The public hearing on this application was closed.

**REBECCA CHAPARRO** – application #2012-049 – request a variance to Art. II Sec. 3.01.01 to reduce the rear yard setback to 26' (30' req.) to construct a deck at 250 Hackmatack St., Residence AA zone.

Ms. Rebecca Chaparro, 250 Hackmatack Street, presented photographs of her property, the surrounding properties and her deck to the Board. The deck was completed in the spring of this year. She said she did have a permit and her husband built it with help from family members. Ms. Chaparro explained their house was put up for sale and they have a buyer. After the final inspection the only outstanding item remaining was the permit for the deck. The deck is four feet bigger than what was shown on the plans and encroaches in the rear yard setback. Ms. Chaparro is requesting a variance for this reason. If she were to have part of the deck removed to be in compliance with the zoning regulations, it would cost \$1,700 and the buyer would lose 60 sq. ft. of deck space. Her neighbors have no problem with the deck, she said.

In response to a question from Mr. Slegeski, Ms. Chaparro explained that she submitted a plan with her application for a permit and was told the deck was too large. She submitted a revised plan that was approved. She is not sure why the revised application was approved if the deck was still too large.

Chairman Stevenson asked if any member of the public wished to comment either in favor of or in opposition to this application. No member of the public wished to comment at this time.

Ms. Bertotti said there are no outstanding staff comments.

The public hearing portion of the meeting was closed at 7:40 p.m.

I certify these minutes were adopted on the following date:

\_\_\_\_\_  
June 27, 2012  
Date

\_\_\_\_\_  
James Stevenson, Chair

**NOTICE: A DIGITAL RECORDING OF THIS PUBLIC HEARING CAN  
BE HEARD IN THE PLANNING DEPARTMENT.**

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