

**FERGUSON TOWNSHIP ZONING HEARING BOARD**  
**Regular Meeting**  
**Tuesday, April 25, 2017**  
**7:00 pm**

**I. ATTENDENCE**

The Zoning Hearing Board held its regular meeting on Tuesday, April 25, 2017 at the Ferguson Township Municipal Building. In attendance were:

**Board:**

Michael Twomley—Chairman  
Karen English—absent  
Swamy Ananheswaran—Secretary  
Michael MacNeely—absent  
Susan Buda  
Charles Farrell—Alternate  
Marc Friedenberg—Alternate  
Irene Miller—Alternate

**Staff:**

Jeffery Ressler, Zoning Administrator  
Amanda Bernier, ZHB Solicitor

Other in attendance included: Tony Fruchtl, PennTerra; Tom Jacobs, S & A Homes; Ray Stolinias, Director of Planning & Zoning

**II. SWEARING IN OF THOSE THAT WISH TO TESTIFY**

Three individuals stood to be sworn in. Mr. Twomley stated that Mr. Farrell will stand in as a core voting member of the Board due to absences.

**III. REQUEST FOR A VARIANCE – PETER MALI, III AND CHELSEA MALI**

Mr. Ressler stated that the property that is the subject of the hearing is located at 1362 Sconsett Way, tax parcel number 24-432-144-0000. The property in question is owned by Peter and Chelsea Mali, and Mr. Jacobs of S & A Homes is presenting the request of behalf of the property owners. The property is zones R-1B. Mr. Ressler stated that a zoning permit was issued for the construction of a house and driveway on February 29, 2016. A final inspection was conducted on January 15, 2017, where Mr. Ressler observed that a second driveway entrance and additional driveway had been constructed without a permit or approval. Mr. Ressler explained that after reviewing the file, he discovered that the approved plan showed a 31% maximum impervious coverage for the lot, and the R-1B district permits a maximum allowable impervious coverage of 30%. The additional driveway area as shown on the applicant's "existing conditions" plan cannot be permitted unless a variance would be obtained as additional impervious coverage further exceeds the allowable 30%. Mr. Ressler stated that a notice of violation was issued for the construction of the driveway without a zoning permit approval and for violating the maximum allowable impervious coverage. The owners have been granted temporary occupancy and have posted surety for the removal of the driveway in case the variance is not granted by the Zoning Hearing Board. The applicants are requesting a variance to be able to keep the newly constructed part of the driveway if they remove a 4-foot width of the driveway as shown on the "proposed revisions to lot 89" plan, which amounts to 830 square feet of the bituminous asphalt and 230 square feet of concrete. There have been no other variance requests for this property.

Ms. Buda stated that the driveway width shown on Exhibit A is 16 feet, while the driveway width on the existing plan is 20 feet.

Mr. Jacobs stated that this particular lot was purchased from WPSH Associates, who were the original owners and developed by Peter and Chelsea Mali. The current property owners sought out the property to build a custom home, instead of using a blueprint that S&A Homes had. The property owners sought out two different development companies, neither of which could provide the Malis with a design that was satisfactory to them. The Malis then went back to the S&A Homes developers, who came up with the plan that currently exists. Mr. Jacobs stated that S & A Homes was contracted to build the house on the lot and only provided oversight and guidance to the property owners regarding the dig, foundation, footer pour, landscaping, and exterior surfaces (driveway and concrete). No one really governed the placement of the driveway other than the home owner, which is why there has been a variance request. Nittany Mountain did the excavation, Eby Paving constructed the driveway, and Gingrich Concrete poured the lead walk, (the walk that guides someone from the driveway to the front of the house that has since been mostly removed) and public walk. At this point the Malis understand the requirements for the R-1B zoning district; however, they were not familiar with the zoning district when they built the home.

Mr. Jacobs stated that the difference in R-1 zoning and R-1B zoning is that there should be a limit to the impact of development on sensitive geological topographical and other features. The zoning was changed from R-1 to R-1B back in 1996 to prevent overcrowding on the flat portion of Saybrook. Because of karst topography, no one in the zoning district would be allowed to place something so tight that would push as much impervious surfaces and cause runoff, which could potentially create sinkholes.

Mr. Jacobs explained that between the date of Exhibit A and the date of the existing conditions, the projected was mismanaged. Mr. Fruchtl clarified that the date of Exhibit A was February 2016 and the existing conditions plan is dated February 2017. Mr. Jacobs stated that following the Malis construction of the property on lot 89, there was over 10,000 square feet of impervious surface, which equals 43.6%. The total lot square footage is 23,083 feet. 30% of the total lot square footage would be 6,925 feet allowable for impervious coverage. Mr. Jacobs explained that once Mr. Ressler did his inspection and found the violation, he notified S & A Homes, who in turn notified the project manager of the home construction, who in turn notified the Malis. The Malis immediately began to remedy the situation by removing a portion of the driveway as well as the lead walk. He referred to the projector to show the specific areas that were removed. After discussions between the Malis, the project manager, and Mr. Jacobs, the existing conditions were created, which shows 9,094 square feet of impervious coverage which is 39.4% total impervious coverage. To be compliant with the R-1B zoning district, total impervious coverage would have to equal 6,925 square feet. Mr. Jacobs stated that the proposed revision shows the total removal of the lead sidewalk as well as a portion of the estate-style driveway, which would bring the total impervious coverage square footage to 8,226.1. Mr. Jacobs clarified that the lead walk is in the process of being removed. The Malis started to remedy the situation to appease the Zoning Hearing Board without requesting a variance, at which point Mr.

Jacobs, the project manager, and the Malis created the proposed revision to the existing conditions plan. The Malis would like to keep the estate-style driveway because they think it lends a great deal to the lot. The public walk is 1,163 square feet of impervious coverage which is 5.1% of the total lot size. Other lots on Sconsett Way have only around 1.1% of the impervious coverage dedicated to the public walk—significantly less than the lot in question. Mr. Jacobs stated that the lot would be non-conforming if the public walk was removed. He believes that a significant portion of the coverage is due to the public walk.

In response to a question from Mr. Twomley, Mr. Jacobs stated that if the lot was “skinnier” the frontage of the lot would be reduced, therefore reducing the amount of public walk required. In response to a question from Mr. Anatheswaran, Mr. Jacobs stated that he would not recommend this type of design for this lot.

Mr. Jacobs stated that the homeowners believe that without the requirement and massive frontage of the public walk, they would be able to have an estate-style driveway and still make the lot conforming to the zoning district. Mr. Jacobs stated that the homeowners realize that they made a mistake in meeting the impervious coverage requirements; however, they don’t believe it makes an adverse impact to the Saybrook community, and specifically Sconsett Way. They’ve taken action to reduce the amount of impervious coverage on the lot, so they would like a variance as to not meet the 30% impervious coverage requirement.

Mr. Twomley stated that there are five criteria that need to be met for the Zoning Hearing Board to grant a variance. He believes that none of the criteria have been met. Mr. Jacobs stated that he believes there was miscommunication between the property owners, the project manager, and the Eby Paving draftsman of the driveway plan.

There was discussion between the members about what kind of lot is considered a “unique shape”. The lot in question is on a curve, and Ms. Buda pointed out that there are many other lots in the Township that are on curves and corners that are able to meet the impervious coverage requirements.

There was a lengthy discussion between the Board members about the different options that the property owners could pursue to further reduce the impervious coverage on their lot, including removing more of the bituminous asphalt and concrete, or using pervious materials. It was of the opinion of several Board members that the Township give the applicants a chance to remedy the situation further before making a decision on the variance.

A motion was made by Mr. Anatheswaran and seconded by Mr. Farrell to table the 1362 Sconsett Way variance request to continue discussion at the May 2017 Zoning Hearing Board meeting. The motion carried 2-1.

#### IV. ADJOURNMENT

Mr. Twomley stated that the Zoning Hearing Board never officially voted on the 2017 meeting dates due to a previous member's inability to attend the meetings.

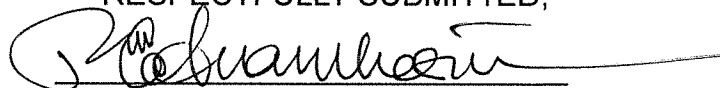
Mr. Twomley stated that the meeting dates fall on the fourth Tuesday of every month, with the exception that the Zoning Hearing Board meets the third week in November and December due to the holidays.

A motion was made by Ms. Buda and seconded by Mr. Anatheswaran to have the Zoning Hearing Board meetings on the fourth Tuesday of every month at 7:00 p.m., except for November and December which would be held on the third Tuesday of the month at 7:00 p.m. The motion carried unanimously.

Mr. Twomley asked the Board members to please check their Township emails regarding the Zoning Hearing Board meetings.

With no further business to come before the Zoning Hearing Board the April 25, 2017 meeting adjourned at 8:03 p.m.

RESPECTFULLY SUBMITTED,



Swamy Anatheswaran, Secretary  
For the Zoning Hearing Board

Date approved by the Board: 6/27/17