

CITY OF TWINSBURG
BOARD OF ZONING APPEALS MINUTES
NOVEMBER 22, 2017

**CITY OF TWINSBURG
BOARD OF BUILDING AND ZONING CODE APPEALS
NOVEMBER 22, 2017**

Mr. Kancler called the meeting to order at 6:33 p.m.

Present: Messrs: Tom Brown, Gary Wilner, Ed Kancler, Joe Zeitz

Absent: Mr. Chris Griffith

Also Present: Mr. Russ Rodic, Building Commissioner
Mr. Sam Scaffide, Council Representative

The Board recited the Pledge of Allegiance.

**CITY OF TWINSBURG
BOARD OF BUILDING AND ZONING CODE APPEALS
WORK SESSION
NOVEMBER 22, 2017**

1. Appeal # 11-2017
Appeal to Overturn the Building Commissioner's decision to deny a permit based on the proposed improvement's location with respect to Section 1144.08(b)

A public hearing will be conducted at 6:30 pm on November 22, 2017; for the purpose of hearing an appeal to overturn the Building Commissioner's decision to deny a permit for the construction of a basketball court pad within 32' of a neighboring noise sensitive use area. Section 1144.08(b) of the City's Zoning and Development Regulations provide that site improvements on individual lots within the R-5 Cluster District "will not be situated so as to place outdoor use in close proximity to a neighboring property's noise sensitive rooms such as bedrooms." The proposed pad would be located within 32' of the neighbor's bedroom and a permit to construct was denied by the Building Commissioner. The property owner is appealing the denial of a permit to construct by the Building Commissioner. This appeal is made by Jayatu Das Sarma of 10412 Fox Hollow Circle.

Mr. Das Sarma explained his application.

- He would like to build a basketball pad in his rear yard.
- His house is on a corner lot and with streets on two sides he feels the rear yard is a safer place for his children to play.
- He began construction and received approval from his Homeowners Association prior to applying to the City for a permit.
- He is appealing the Building Commissioner's finding on the basis that there is no specific dimension listed for the restriction not allowing the court to be build "close" to a neighbor's noise sensitive room. He would like to know what would be a suitable distance from the neighbor and if there are other options that would be acceptable.

Mr. Kancler asked the size of the pad.

Mr. Das Sarma replied 12 feet by 20 feet.

Mr. Kancler commented that the homes are very close and that Mr. Das Sarma being on a corner lot has a deeper setback on two sides.

- The lot slopes approximately 3 to 4 feet down just before the area of the proposed pad.

Mr. Zeitz asked if the play area is close to the applicant's house.

Mr. Das Sarma explained that due to the drop in elevation it is more to the center of his yard.

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Mr. Zeitz noted that the pad has already been started.

Mr. Das Sarma stated that it was started prior to his knowledge of the City permit requirement.

Mr. Zeitz commented that it appears to sit closer to the right lot line, closer to 10406 Fox Hollow Dr., would the basketball pad actually be closer to that house than to 2214 Whitewood Blvd.?

Mr. Das Sarma stated that it is not closer to that neighbor; it is still on his land and quite a bit into his yard.

- It is fairly centered between the neighboring houses.

Mr. Kancler noted that one of the neighbors has a portable basketball hoop in his driveway, which is close to Mr. Das Sarma's home.

Mr. Kancler asked what the plan is for lighting the area for nighttime play.

Mr. Das Sarma stated that there would be no lights.

Mr. Kancler asked if the applicant has considered adding landscaping between the play area and the neighbor's property.

Mr. Das Sarma noted that he has discussed that with the neighbor.

- His landscaper has recommended small trees and bushes.

Mr. Brown asked if the applicant has considered placing the pad on the other side of the house, which would not impede on the neighbors.

Mr. Das Sarma stated that would allow the ball to roll into the road more easily.

- He could look into whether the City would allow a fence on that side of his property.

Mr. Kancler explained that the Board is required to enforce the Ordinance as written and that this particular section of the Ordinance has no standard in it whatsoever, it is left at a judgment call as to whether you may do something in a noise sensitive area.

- He feels that this is an Ordinance which should be examined and modified by the City Law Department.
 - o There are no decibel requirements or noise requirements that other Ordinances include, it is simply a judgment call in relation to distance.

Mr. Kancler noted that, if the variance is granted, he would like to see limitations placed on it restricting it to daytime use and no lighting allowed as well as landscaping or fencing to keep the ball on the applicant's property.

Mr. Brown commented that if placed on the Whitewood Blvd. side of the house, the applicant would be permitted to place a fence to keep the ball out of the street.

Mr. Rodic agreed.

Mr. Brown noted that in an effort to stay far enough away to not disturb neighbors that is an option.

Mr. Kancler asked Mr. Rodic if a variance would be needed for the pad to be located on the side of the house.

There was a conversation regarding a possible alternate location for the play area.

Mr. Kancler commented that the R-5 zoning district does not allow much space for this type of uses.

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Mr. Das Sarma noted that the side yard location would require him to move some existing landscaping.

- He would prefer to keep the current location and put up a fence to contain the ball.

An unidentified neighbor commented that the noise will be very disturbing to him in the current location.

- He works at a home office located on that side of the house as well as sometimes requiring daytime sleep with his bedroom also on that side of the house.
- He has a permanent generator located outside near the basketball area as well and is concerned that it may be damaged by a ball.

Mr. Brown suggested that moving the play area to the side of the house with a fence and landscaping would provide protection for the children as well as a beautification feature.

Mr. Kancler suggested tabling the application to allow the applicant to look into alternate locations and options that may work for both the applicant and the neighbor.

The neighbor commented that he is comfortable with the location on the side of the house; it removes the noise from his bedroom, office, family room area and would keep the ball away from his permanent generator.

Mr. Brown noted that this is a discussion regarding current owners, there is a future issue of possible new owners not being willing to work together on the times of play, etc.

The neighbor stated that he would not have purchased his house with the neighbor's basketball hoop at its current location.

Mr. Kancler asked for a motion to table the matter in order to give the applicant an opportunity to investigate alternative locations and try to balance the additional expense with a location which may reduce disturbance to the neighbors.

Mr. Das Sarma noted that all of the neighbors will have decks outside with noise in the summer time.

The neighbor commented that the distance from the side yard location to his home would be much larger and there would not be homes for the sound to echo off of.

Mr. Das Sarma understands that the noise would be reduced at the alternate location but it will cost him more money.

- He would prefer to landscape and fence the area in its current location.

The neighbor stated that the sound will be magnified by and echo off the homes in the rear yard location.

- He does not want a basketball hoop right outside of his bedroom.
 - o He is here to oppose the application.

Mr. Brown explained that he would like to allow the applicant and neighbor to resolve the issue together as opposed to the Board making a decision at this time.

- He suggested that the applicant and neighbor work together exploring all possible solutions and come up with something that both can be happy with.

Mr. Zeitz noted that the homes in this zoning district are located on very small lots which are not intended for the homeowner to add extra outside uses.

- There are other play areas available in the immediate vicinity; Dodge school is at the end of this street and has basketball hoops and playgrounds as well as the church parking lot across the street allowing open play space.

Mr. Kancler closed the work session at 6:56 pm.

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PUBLIC PARTICIPATION – NONE

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Mr. Kancler asked for a motion to table this matter to a future meeting so that the applicant has an opportunity to explore alternatives and discuss this matter with his neighbor and family.

MOTION: I MOVE THAT WE TABLE THIS REQUEST ALLOWING THE APPLICANT AND NEIGHBOR TO DISCUSS ALTERNATE LOCATIONS COORDINATING WITH THE BUILDING COMMISSIONER IN REGARDS TO WHEN THEY WANT TO RETURN WITH ALTERNATE SOLUTIONS TO THIS.

MR. BROWN MOVED, MR. ZEITZ SECONDED
UPON ROLL CALL, MOTION PASSED UNANIMOUSLY.

APPROVAL OF MINUTES – Dated October 11, 2017.

MOTION: TO APPROVE THE MINUTES DATED OCTOBER 11, 2017.

MR. WILNER MOVED, MR. ZEITZ SECONDED
UPON ROLL CALL, MOTION PASSED UNANIMOUSLY.

COMMUNICATIONS- NONE

EXCUSE ABSENT – Mr. Griffith

MOTION: TO EXCUSE MR. GRIFFITH FROM THE MEETING.

MR. ZEITZ MOVED, MR. BROWN SECONDED
UPON ROLL CALL, MOTION PASSED UNANIMOUSLY.

ADJOURNMENT- The meeting adjourned at 7:01pm.

Ed Kancler, Chairman

Russ Rodic, Building Commissioner