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INCORPORATED VILLAGE OF LAUREL HOLLOW
BOARD OF ZONING APPEALS
PUBLIC HEARING
June 25, 2018
7:30 p.m.

VILLAGE HALL
1492 Laurel Hollow Road
Syosset, New York 11791-9603

PRESENT: RUSSELL MOHR, CHAIRMAN
JEFFREY BLUMIN, MEMBER
LOUIS LEBEDIN, MEMBER
VINCENT PARZIALE, MEMBER

ALSO PRESENT:

HOWARD AVRUTINE, Village Attorney
JAMES ANTONELLI, Village Engineer

ZS2-2018 - Pul tz - 18 Overlook Drive

RONALD KOENIG
OFFICIAL COURT REPORTER

1 MR. AVRUTINE: Case ZS2-2018, the public
2 hearing on the application of Binu Pillay on behalf of
3 Christopher and Nicole Pultz to install a retaining wall
4 at 18 Overlook Drive where the construction will disturb
5 a steep slope, a very steep slope, and a severely steep
6 slope as shown on the Slope Analysis Survey prepared by
7 Christopher M. Buckley dated 2/14/2018 and the Steep
8 Slope and Demolition Plan prepared by Nicholas J.
9 DeSantis, PE, dated 3/27/2018 and last revised 5/1/2018.

10 The property under application is designated
11 as Section 14, Block 13, Lot 13 on the Land and Tax Map
12 of Nassau County.

13 The exhibit list in connection with this
14 application are as follows:

15 First, notification from the Nassau County
16 Planning Commission dated May 21, 2018 that the
17 application is referred to the Village of Laurel Hollow
18 Board of Zoning Appeals to take action as it deems
19 appropriate.

20 The next exhibit is legal notice dated
21 June 11, 2018.

22 The next exhibit is an affidavit of posting
23 from Nicholas Porcaro that the legal notice was posted
24 conspicuously on the bulletin board located at the main
25 entrance to the Office of the Village Hall on June 15,

1 2018.

2 The next exhibit is an affidavit of
3 publication by Michele Snow of Richner Communications
4 stating that the legal notice was published in the
5 Oyster Bay Guardian on June 15, 2018.

6 The next exhibit is a document that confirms
7 that the legal notice was published to the village
8 website and sent to village website subscribers on
9 June 13, 2018.

10 The next exhibit is an affidavit from the
11 Deputy Clerk stating that the legal notice was mailed on
12 June 12, 2018 to the agencies set forth on the
13 affidavit.

14 The next exhibit is an affidavit of mailing
15 from the applicant indicating that the notice of public
16 hearing was mailed on June 12, 2018 to the individuals
17 set forth in the affidavit.

18 The last exhibit is correspondence from James
19 Antonelli, Village Engineer, dated May 17, 2018.

20 Do we have a representative of the applicants
21 here this evening?

22 Please give your names and addresses for the
23 record.

24 MR. PULTZ: Chris Pultz, 18 Overlook Drive.

25 MR. DeSANTIS: Nick DeSantis, Newport

Proceedings

1 Engineering, 71 West Main Street, Oyster Bay.

2 MR. AVRUTINE: You may proceed.

3 MR. PULTZ: We would like to repair an
4 existing retaining wall that basically holds my pool up
5 on the hill on the west side. Right now, it's currently
6 a wood railroad tie retaining wall that's about 4 to
7 6 feet. It's starting to bow and the wood is starting
8 to deteriorate.

9 Along the south side of the house of the pool,
10 there's no retaining wall there. There's a partial
11 retaining wall for maybe the first 3 or 4 feet, which is
12 completely gone.

13 what we would like to do is extend that
14 retaining wall all the way across the back, which is
15 dead space behind the pool. And all of that is on a
16 slope as shown in the slope survey.

17 MR. DeSANTIS: From the slope survey, we took
18 the job with regard to designing a retaining wall. It
19 is a segmental wall, geogrid reinforced. It's got a max
20 height of 4 feet. We are being very cognizant of the
21 slopes and following a natural contour.

22 With regard to the slopes themselves, we are
23 within the three slope classifications of steep slope,
24 very steep and extremely steep. We did some
25 calculations on what we're affecting based on these

Proceedings

1 percentages. We're affecting 2 percent on the extremely
2 slope and 4 percent on the very steep slope.

3 The positioning of this works well for his
4 site. It gives the applicant the room that he wants,
5 you know, for the terracing.

6 And just clean up information, I spoke to Bill
7 Bottenhoffer from Nassau County DPW, because these kind
8 of applications go out for what we call 239-F
9 coordination. Bill just wanted to make sure we
10 understood there is a drainage easement down to a sump.
11 I explained to him our work was preexisting and we were
12 working confined, closer to the property, and no work
13 was happening or occurring into the drainage easement.
14 So he was fine with it. I'm not sure if they
15 transmitted any information.

16 That's pretty much it.

17 With regard to fill and placement, again, it's
18 not a high wall. It's only a 4-foot wall. We have
19 52 cubic yards of fill placement that will fill in this.
20 It's like a little tri-water where all the waters
21 converge right here of this steep slope and extremely
22 steep sleep. So we have 52 yards that will be placed to
23 level this out after the wall is constructed.

24 MR. AVRUTINE: Mr. DeSantis, is there a way
25 that the project can be designed such that the severely

1 steep slope area will not be impacted?

2 MR. DeSANTIS: Unfortunately, the best way I
3 can describe it, it is like the merging waters over
4 here. It just happens to cross at that one spot. The
5 only way to, unfortunately, is to pull it right up to
6 the pool area. So he has a tapered slope as is. It was
7 probably more machine made. So we're pretty much coming
8 into that same area of tapered slope of the preexisting
9 when they first built the pool, just to level it off
10 properly.

11 MR. AVRUTINE: Thank you.

12 CHAIRMAN MOHR: What is the distance between
13 the corner of the pool line and the retaining wall?

14 MR. PULTZ: About 20 feet.

15 CHAIRMAN MOHR: Twenty feet?

16 MR. PULTZ: Yes.

17 CHAIRMAN MOHR: And the fence line beyond the
18 pool area between the -- because I don't see the fence
19 line on there.

20 MR. DeSANTIS: It may not be on the composite
21 slope. The fence line will be --

22 I'm assuming you're going to go on top of the
23 wall?

24 MR. PULTZ: We may do here.

25 CHAIRMAN MOHR: You're bringing that out?

1 MR. PULTZ: Yes.

2 CHAIRMAN MOHR: You're bringing that fence
3 out. From where it currently is, you're bringing that
4 further to the --

5 MR. PULTZ: South.

6 CHAIRMAN MOHR: Right. Towards the retaining
7 wall.

8 MR. DeSANTIS: Towards the retaining wall
9 south, correct.

10 MEMBER LEBEDIN: You're going to fill in grass
11 in that area?

12 MR. DeSANTIS: Yes.

13 MEMBER PARZIALE: The 52 cubic yards, is that
14 coming from off site, as being imported, or that's being
15 used from around the site?

16 MR. DeSANTIS: Well, you have some material
17 from the site obviously from the new wall going up.
18 We'll probably be able to reclaim whatever the width of
19 the wall in that segment, and then there will be off
20 site.

21 MEMBER PARZIALE: What I like that I heard was
22 that you're going to reduce the wall from 6 feet to 4
23 foot, especially there's not a fence on there right now
24 so you don't have to worry about a fall hazard.

25 CHAIRMAN MOHR: Certainly with the existing

1 condition of the current wall which is bowing out, that
2 certainly needs repair, and I think this would be an
3 improvement. Whether or not you can creep it in a
4 little bit to avoid that steep slope, I would let
5 Mr. Antonelli talk on that.

6 MR. AVRUTINE: You're talking about the
7 severely steep slope portion?

8 CHAIRMAN MOHR: Yes.

9 Any questions?

10 MEMBER PARZIALE: I would say put a little
11 silt fence around. My suggestion would be that when
12 they're doing the construction, a little silt fence to
13 reduce any erosion.

14 MR. DeSANTIS: Absolutely. And I also spoke
15 to Bill Bottenhoffer to ensure him that we were going to
16 do that so nothing gets into the waterway area.

17 MR. AVRUTINE: Is that depicted on your plan?

18 MR. DeSANTIS: It's on the main Building
19 Department plan, yes, it is, the silt fence. That was
20 one of the comments.

21 MR. AVRUTINE: Mr. Antonelli, your report
22 please.

23 MR. ANTONELLI: I reviewed the plan and I have
24 a couple of items here.

25 The first one is, before I get into it, a

1 question. The percentages that were given earlier, a
2 percent of each slope, do I understand that correctly
3 that when you say 4 percent or 5 percent or 2 percent,
4 that is of all that slope category on the property?

5 MR. DeSANTIS: Correct.

6 MR. ANTONELLI: It's not a portion of your
7 project or of your disturbance?

8 MR. DeSANTIS: It's the disturbance of the
9 property in each slope classification.

10 MR. ANTONELLI: I don't know where that
11 20 feet that was mentioned earlier comes from. I'm
12 scaling off 27 feet from the pool to the proposed.

13 This is the way I looked at this. The
14 existing timber wall which is failing is in the severe
15 slope category. The entire southern tip of it with a
16 little return is within the severe slope. So I think
17 whatever they do to repair it, they're in the slope
18 category. It cannot be avoided as far as I'm concerned.
19 And if you go to extend it in any direction, which
20 either has to be east or south, you're in a severe slope
21 category. I really don't think that's avoidable to do
22 anything. Whether they're filling, whether they're
23 extending the useable yard space, whatever they're
24 doing, if you're going to repair the wall, you're into
25 the slope, the severe category.

1 And we know that the Code does, I guess,
2 somewhat give guidance on handling each slope category
3 slightly differently, and the severe category is one
4 where you don't have a lot of discretion. But in this
5 case, this is something that I really believe is
6 unavoidable. It's not like they went out of their way
7 to disturb the area. It was a little more sensitive in
8 that severe category.

9 I have a note here to say that we -- strike
10 that.

11 I looked at the retaining wall, typical
12 section. It is a segmental wall with geogrid tiebacks.
13 Even though we don't have calculations on this, this
14 certainly looks like, for any reasonable result of what
15 the soils are like in this area, I'm pretty sure this
16 covers it. So I'm fine with the detail on that.

17 But they are showing a fence at the top, and I
18 just want to make a remark. Whether it's in or not,
19 they do have to comply with the State Building Code on
20 that. So I don't know whether as a matter of course
21 Mike, the Code Official, will pick that up or not, but I
22 think we should include that as a --

23 CHAIRMAN MOHR: It states New York State Code
24 on the plan.

25 MR. ANTONELLI: Right. I just want to make

1 sure that --

2 MR. PULTZ: Is that because of the retaining
3 wall or because of the pool?

4 MR. ANTONELLI: Both.

5 MR. PULTZ: I know --

6 MR. ANTONELLI: You need a fence around the
7 pool, period.

8 MR. PULTZ: We know that.

9 MR. ANTONELLI: But the fence has certain -- I
10 think it's a 30-inch height threshold, I believe, before
11 you need it, but I'm not your code enforcer.

12 MR. AVRUTINE: We'll address that with
13 Mr. McNerney to make sure that the State Code is
14 complied with in all respects.

15 MR. PULTZ: Because we'd like to fence the
16 property and then we are going to put bushes up along
17 the top of the retaining wall.

18 MR. AVRUTINE: As a pool enclosure?

19 MR. PULTZ: Not as a pool encloser, just as
20 the enclosure to that area. The fence would enclose the
21 property.

22 MR. AVRUTINE: Mr. McNerney will make the
23 determination regarding compliance with State Code in
24 connection with these items as well as the pool
25 enclosure issue.

Proceedings

1 MR. PULTZ: Right. Okay.

2 MR. AVRUTINE: Any other questions from the
3 Board?

4 CHAIRMAN MOHR: No.

5 Anyone from the public who would like to
6 address this matter?

7 MR. AVRUTINE: Let the record reflect that
8 there are none.

9 A motion to close the public portion of the
10 hearing?

11 MEMBER LEBEDIN: So moved.

12 MR. AVRUTINE: Member Lebedin.

13 A second?

14 MEMBER PARZIALE: Second.

15 MR. AVRUTINE: Member Parziale.

16 All in favor?

17 CHAIRMAN MOHR: Aye.

18 MEMBER BLUMIN: Aye.

19 MEMBER PARZIALE: Aye.

20 MEMBER LEBEDIN: Aye.

21 MR. AVRUTINE: A motion for the Board to
22 declare itself lead agency under the New York State
23 Environmental Quality Reviewed Act?

24 MEMBER BLUMIN: So moved.

25 MR. AVRUTINE: Member Blumin.

Proceedings

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Second?

MEMBER LEBEDIN: Yes.

MR. AVRUTINE: Member Lebedin.

All in favor?

CHAIRMAN MOHR: Aye.

MEMBER BLUMIN: Aye.

MEMBER PARZIALE: Aye.

MEMBER LEBEDIN: Aye.

MR. AVRUTINE: A motion to declare this matter
an unlisted action under the New York State
Environmental Quality Review Act?

MEMBER BLUMIN: So moved.

MR. AVRUTINE: A second?

MEMBER LEBEDIN: Second.

MR. AVRUTINE: Member Lebedin.

All in favor?

CHAIRMAN MOHR: Aye.

MEMBER BLUMIN: Aye.

MEMBER PARZIALE: Aye.

MEMBER LEBEDIN: Aye.

MR. AVRUTINE: Mr. Antonelli, can you please
address the Board regarding your New York State
Environmental Quality Review Act analysis and your
recommendation on a determination?

MR. ANTONELLI: Okay. The Board just acted

Proceedings

1 appropriately, I might add, on calling this an unlisted
2 action under the State Environmental Quality Review Act.
3 As such, it's a state requirement for the applicant to
4 file the Short Environmental Assessment Form.

5 I reviewed the form obviously with the plans.
6 And on behalf of the Village, I completed Part II of the
7 form. Part I is the applicant's portion. Part II is my
8 professional evaluation. And I've concluded that based
9 on our analysis and all of the supporting documentation,
10 the proposed action would not have any significant
11 adverse environmental impact. I've signed the Part II
12 form and left a blank for the chairman to sign on behalf
13 of the Village. And I may offer this.

14 MR. AVRUTINE: Thank you.

15 Is it your recommendation, based upon your
16 analysis, Mr. Antonelli, that the Board enact a negative
17 declaration under the New York State Environmental
18 Quality Review Act?

19 MR. ANTONELLI: Correct.

20 MR. AVRUTINE: Thank you.

21 At this time, I would entertain a motion for
22 the Board to adopt a negative declaration.

23 CHAIRMAN MOHR: So moved.

24 MR. AVRUTINE: Chairman Mohr.

25 A second?

Proceedings

1 MEMBER PARZIALE: Second.

2 MR. AVRUTINE: Second by Member Parziale.

3 All in favor?

4 CHAIRMAN MOHR: Aye.

5 MEMBER BLUMIN: Aye.

6 MEMBER PARZIALE: Aye.

7 MEMBER LEBEDIN: Aye.

8 MR. AVRUTINE: And a motion on the
9 application?

10 MEMBER LEBEDIN: So moved.

11 MR. AVRUTINE: To approve?

12 MEMBER LEBEDIN: Approve.

13 MR. AVRUTINE: Member Lebedin.

14 And with the condition that silt fencing be
15 installed in accordance with the plan submitted to the
16 building inspector.

17 MR. ANTONELLI: It's on the plan.

18 MR. AVRUTINE: It is. Then we don't need the
19 condition of the silt fence.

20 So motion to approve by Member Lebedin.

21 May I have a second?

22 MEMBER BLUMIN: Second.

23 MR. AVRUTINE: Member Blumin.

24 All in favor?

25 CHAIRMAN MOHR: Aye.

Proceedings

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MEMBER BLUMIN: Aye.

MEMBER PARZIALE: Aye.

MEMBER LEBEDIN: Aye.

MR. AVRUTINE: Application approved as
submitted.

CERTIFIED THAT THE FOREGOING IS A TRUE AND
ACCURATE TRANSCRIPT OF THE ORIGINAL STENOGRAPHIC MINUTES
IN THIS CASE.

RONALD H. KOENIG
Senior Court Reporter