

MINUTES – ZONING BOARD –December 5, 2022

The Cranford Zoning Board of Adjustment meeting scheduled for Monday, December 5, 2022 at 7:30 p.m. was conducted virtually in order to avoid potential impacts from Covid-19.

This meeting is in compliance with the “Open Public Meetings Act” as adequate notice of this meeting has been provided to the Westfield Leader and the Star Ledger with the agenda specifying the time, place and matters to be heard having been posted on a bulletin board in the Town Hall reserved for such announcements and the filing of said agenda with the Township Clerk of Cranford. Formal action may be taken at this meeting.

The workshop portion of the meeting was called to order at 7:40 p.m. Ms. Daly, Chair.

ROLL CALL:

Members Present:

Ms. Daly
Mr. Marotta
Mr. Aschenbach
Mr. Lucas
Mr. Rees

Members Absent:

Mr. Ashrafi
Mr. Quinn

Alternates Present:

Mr. Cukierski

Alternates Absent:

Ms. Oliver

Also in attendance: Mark Rothman, Esq., and Kathy Lenahan, Board Administrator, Kathleen Nemeth, Zoning Officer

The workshop portion of the meeting concluded at 7:45 p.m. and will be continued after the public hearing.

PUBLIC PORTION:

A public meeting of the Cranford Board of Adjustment was called to order by Ms. Daly on December 5, 2022, at 7:45 p.m. via Google Meet. Ms. Daly announced in accordance with the terms and conditions of the Open Public Meetings Act, the Westfield Leader and the Star Ledger have been notified and the agenda posted in the municipal building as required.

Ms. Daly explained the protocol, purpose and procedure that will be followed during the hearing.

1. Application #ZBA 22-014
Frank Litterio
322 Manor Avenue
Block: 235 Lot: 14, R-4 Zone

Applicant is appealing the Zoning Officer's decision regarding story height §255-1 Story Above Grade.

Frank Litterio appeared, was sworn in and provided his address as 420 Manor Avenue. Stated the zoning officer denied his application due to the story height. The basement height is 4 ½ feet above grade. The Code states anything over 3 ½ feet is considered a story and he would not be able to add an additional story. Had a discussion with the Zoning Officer, Kathleen Nemeth, regarding the Code. He has

pictures of others houses with basements that are between four and six feet above grade. Both 324 and 326 Manor Avenue are the same house and did add a second floor without any variances. Feels it should also be than done for his house.

Questions from the Board for this witness ascertained the following:
He is not disagreeing with the rule, but feels it is not being applied properly. A precedent has been set with the other houses.

Ms. Daly asked if anyone from the Public had questions for this witness, no one appeared.

Kathleen Nemeth, Zoning Officer appeared and was sworn in. Ms. Nemeth introduced herself to the Board.

Questions from Mr. Rothman to Ms. Nemeth ascertained the following:
One of her roles is to review building applications and zoning permits. She reviewed the permit for tonight's appeal. Reviewed it in terms of zoning compliance. The application is for an addition to an existing house. There is a limit to the number of stories someone can have. The story height is calculated from the ridge height to the grade. The definition of a story above grade is, if the distance from the first floor to the lowest grade is greater than 3 ½ feet, you have to consider the basement a story. Denied the permit based on the fact that the basement is more than 3 ½ feet above grade. Requires a variance to grant anything out of the zoning ordinance. Her office does not have the authority to grant variances. Basis of her decision was only on story height.

Questions from the Board to Ms. Nemeth ascertained the following:
Mr. Litterio wanted to clear up the story height issue before making any adjustments to the other items, such as setbacks and maximum building coverage.

James Litterio – 216 Prospect Avenue appeared and was sworn in. Stated that the basement height from floor to rafters is 78 inches. Buildings could have been built a little higher due to flooding. There must be a height requirement to make it a first floor and would question whether the basement would be considered a first floor. Rule was put in for a reason, but in this case, the rule should not apply; it cannot be considered a first floor.

Board member asked if there is a definition of a floor height.

Ms. Nemeth stated there is no definition of a floor height, except when determining if the attic is a story.

Ms. Daly stated the reason the Zoning Board of Adjustment exists is for when something is not within the ordinance, but an exception could be made. They must follow the law.

Ms. Daly asked if any member of the Public would like to make a comment for or against this application, no one appeared.

2. DELIBERATIONS - Application #ZBA 22-014
Frank Litterio
322 Manor Avenue
Block: 235 Lot: 14, R-4 Zone

Applicant is appealing the Zoning Officer's decision regarding story height §255-1 Story Above Grade.

Board comments consisted of the following:

The rule is what the rule is. Zoning Officer does not have the authority to make adjustments from the rules; that is what the Zoning Board of Adjustment is for. This is why this Board is appointed, to serve the community for those that need relief from the zoning ordinances. Sometimes it is not without challenge or frustration. Can apply for relief from the ordinances. Cannot overturn the appeal. Recalls the basement issue was put in place due to concerns about flooding. Variance process is the avenue to get possible relief. Believes Zoning Officer applied the law correctly. Go through the variance process. Other applicants have gone through the application process.

Motion to affirm the denial and dismiss the appeal was made by Mr. Lucas, seconded by Mr. Rees, and voted on by roll call vote:

Affirmative: Ms. Daly, Mr. Marotta, Mr. Aschenbach, Mr. Lucas, Mr. Rees, Mr. Cukierski

Opposed: None

WORKSHOP PORTION CONTINUED

COMMUNICATIONS:

None

MINUTES:

None

RESOLUTIONS:

None

OLD/NEW BUSINESS:

- Discussion of the Reorganization date was held.

A motion to hold the Reorganization meeting on January 9, 2023 at 7:30 pm virtually, was made by Mr. Marotta, seconded by Mr. Lucas and passed by unanimous voice vote.

A motion to go into closed session was made by Mr. Marotta, seconded by Mr. Aschenbach and passed on unanimous voice vote.

A motion to come out of closed session was made by Mr. Marotta, seconded by Mr. Lucas and passed on unanimous voice vote.

PUBLIC PORTION:

None

Ms. Daly stated the next meeting is Monday, December 12, 2022.

CONCLUSION:

There being no further business, a motion to adjourn the meeting was regularly made, seconded and passed. The meeting concluded at 8:54 p.m.

Daniel Aschenbach, Secretary