**LAYTONSVILLE BOARD OF APPEALS**

**MEETING MINUTES**

**August 2, 2021 – 7:30 p.m.**

Before the start of the meeting, Mayor Ruspi administered the Oath of Office to Chair Cecere and Members Kerns and Ryan for their new terms of office.

**Roll Call**

A meeting of the Laytonsville Board of Appeals was called to order by Chair Cecere at 7:33 p.m. Board Members Foster, Kerns, and Ryan were present. Member Ols was absent.

**Minutes**

The minutes for the Board of Appeals Meeting of January 11, 2021, were previously submitted and approved with corrections.

**Guests**

Mayor James Ruspi

Ms. Trupti Brahmbhatt and Mr. Lewis Brown

Mr. Sarantos and Mrs. Jennifer Georgopoulos

Mr. Kevin Gutowski

Mr. Giovani Domally

Mr. Chris Schiavone

Ms. Joy Jackson, Assistant Clerk, Laytonsville Town Hall

**Old Business**

None.

**New Business**

Special Exception Application (SE-01-21) submitted by Ms. Trupti Brahmbhatt and Mr. Lewis Brown, 7007 Cracklin Court, Laytonsville, MD, to erect a five-foot, three rail, black aluminum fence around their property conducive to their neighborhood and in accordance with Montgomery County regulations regarding pools and hot tubs.

***Hearing***

Chair Cecere began the hearing by outlining the procedures and administering the swearing in oath to all those providing testimony.

Chair Cecere requested Ms. Trupti Brahmbhatt and Mr. Lewis Brown to provide the background information regarding the request for the special exception.

Ms. Brahmbhatt provided the following points:

* The characteristics of the fence align with the general character and harmony of the community; five properties in Laytonsville Preserve (three with pools, two without pools) currently have similar fences.
* The style and height of the proposed fence matches that of their neighbor, Mr. Chris Schiavone. Agreement has been reached between the neighbors regarding maintenance of the grounds and connection of the fence on the adjoining property line.
* The five-foot fence meets Montgomery County’s requirements for minimum height for a property containing a pool or hot tub. It is the intention of the applicant to install a hot tub and sauna in the future.
* While the Town’s ordinance requires fences to maintain a height of four-feet, it would be counterproductive and expensive to have to erect a five-foot fence in the future to accommodate Montgomery County’s regulation.

Chair Cecere noted that Ms. Trupti Brahmbhatt and Mr. Lewis Brown were basing their application on matching the other residents of Laytonsville Preserve who currently have five-foot fences. He mentioned that this raised a dilemma since the other homeowners had not sought a special exception.

Member Kerns also raised his concerns that five other homeowners had not complied with the Town’s regulations and suggested that the matter be rectified by the Laytonsville Preserve Home Owners Association, requesting that property owners make the necessary arrangements to be in compliance.

Mr. Chris Schiavone (7011 Cracklin Court, Laytonsville, MD) clarified that due to Montgomery County’s ordinance, homeowners who install pools or hot tubs had to erect a five-foot fence. He had received the HOA’s approval and did not understand why Member Kerns felt that he was not in compliance.

Chair Cecere explained that the non-compliance related to the Town of Laytonsville ordinance and suggested that the homeowners and the HOA work together to rectify the situation. He felt that this could be accomplished by a written submission and would not require testimony providing that there were no objections and that the HOA had approved the request in compliance with Montgomery County ordinance. However, presently, Chair Cecere was concerned with the current application.

Member Kerns asked if there was any precedence regarding a county ordinance superseding a town ordinance?

Chair Cecere indicated that the matter needed to be researched and will speak with the Town’s attorney.

Ms. Brahmbhatt explained that the minimum requirement under Montgomery County regulation is five-feet and that fences can be erected over six feet. She requested that the special exception be expedited since the delay had already caused an increase in the price of the fence.

Mr. Giovani Domally (7001 Cracklin Court, Laytonsville, MD) informed the Board that he was also beginning the process of contacting contractors to add a water feature on his property and would like to see the issue resolved soon.

Chair Cecere felt that the special exception application met the requirements under the purview of the Board of Appeals directives and should be approved.

Mr. Kevin Gutowski, Vice President, HOA (21204 Cracklin Court, Laytonsville, MD) noted that the letter of approval from the Laytonsville Preserve HOA did not indicate that there was to be a water feature in the future. He requested that the application submitted by Ms. Trupti Brahmbhatt and Mr. Lewis Brown to the HOA be amended to reflect this change so that the letter of approval could be amended. He confirmed with Ms. Brahmbhatt and Mr. Lewis that they would be adding a hot tub to their property in the future.

Chair Cecere indicated that the Board would approve the application based on the testimony of Ms. Brahmbhatt and Mr. Brown and that there would be a follow up regarding the addition of the hot tub.

Mr. Sarantos and Mrs. Jennifer Georgopoulos (7006 Cracklin Court, Laytonsville, MD) voiced their concerns regarding the varying heights and material of fences currently approved in the Laytonsville Preserve development. In some areas, there is a very narrow strip of property between the different fences that cannot be maintained, which creates an overgrowth of grass above two feet. It would be desirable to have five-foot fences across the board, especially where they meet at the property lines. Mr. and Mrs. Georgopoulos mentioned that they were in support of Ms. Brahmbhatt and Mr. Brown’s application.

Chair Cecere advised Mr. and Mrs. Georgopoulos to bring this issue to the attention of their HOA since it was not an issue relevant to the special exception application.

Mr. Gutowski indicated that several issues had surfaced with the review of this application. He said that the HOA needed to review their covenants.

Chair Cecere requested that the following Exhibits be entered into the record:

* Exhibit 1: Special Exception Application to the Town of Laytonsville by Ms. Brahmbhatt and Mr. Brown.
* Exhibit 2: Application to the Laytonsville Preserve Homeowners Association by Ms. Brahmbhatt and Mr. Brown.
* Exhibit 3: Letter of Approval from the Design Review Committee, Laytonsville Preserve HOA.
* Exhibit 4: Application to Town of Laytonsville for permit to build fence.
* Exhibit 5: Picture of fence and cost estimate.
* Exhibits 6-9: Plats relevant to Lot 10.

There being no other testimony, Chair Cecere asked for a motion to close the record on the hearing.

Member Foster made a motion to close the hearing which was approved unanimously.

Chair Cecere requested a motion to vote on Special Exception Application (SE-01-21) which was seconded by Member Kerns. The vote was unanimous to approve the application based on the Exhibits and testimony that the fence meets the requirements of a special exception complying with the county. Applicants testified that they will be putting in a water structure.

Member Kerns recommended that the Board bring this situation to the Mayor and Town Council regarding the zoning ordinance. He also asked Chair Cecere if the other property owners in Laytonsville Preserve needed to seek special exceptions for the five-foot fences which were already erected.

Chair Cecere confirmed that the other homeowners would need to request special exceptions and that it could be accomplished with the help of the HOA in a unified request providing there were no objections.

Member Kerns asked if there might be similar requests with the other new development.

Chair Cecere indicated that there might be a different set of zoning requirements for the new development and was not sure about giving recommendations to other properties but thought that there might be a way to streamline the process.

**Adjourn**

There being no further business, Chair Cecere asked for a motion to adjourn the meeting which was made by Member Kern and seconded by Member Foster. Motion passed unanimously. The meeting adjourned at approximately 8:14 p.m.

Respectively submitted

Nadine Tarwater