

**MINUTES OF MEETING
ZONING BOARD OF ADJUSTMENT
SEPTEMBER 3, 2019, 4:00PM
DOCKET 1274**

16 Granada Way

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Tuesday, September 3, 2019 at City Hall.

The following members of the board were present:

Chairman Liza Forshaw
Ms. Laura Long
Mr. David Schlafly
Mr. Lee Rottmann
Ms. Elizabeth Panke

Also present were: Erin Seele, City Attorney; Anne Lamitola, Director of Public Works; Roger Stewart, Building Commissioner; Fire Chief Steven Lynn; Assistant Fire Chief Jeff Johnson; Councilmember Kamps; Mayor Spewak; and Lori Wrobel, Administrative Assistant.

Chairman Forshaw called the meeting to order at 4:00 PM.

Approval and Adoption of the Agenda

Ms. Panke made a motion to adopt the agenda. Mr. Schlafly seconded the motion. All those present were in favor.

Approval of the Minutes from the August 6, 2019 meeting

Mr. Schlafly made a motion to approve the Minutes as submitted. Ms. Long seconded the motion. All those present were in favor; the minutes were approved.

Docket 1274 Petition submitted by Kelly Kenter of Byron Properties for the property at 16 Granada Way. Petitioner is requesting relief from the Building Commissioner denying a retaining wall which is in violation of Ordinance #1175, Section IV-F-1 and Section IV- F-3 due to setback and height requirements.

Mr. Stewart stated 16 Granada Way was built in 1939 and is in the D residential zoning district. There is an existing non-conforming retaining wall along the north property line which the owner would like to extend to the east and along the rear yard to connect with another existing wall to create a small parking area. The proposed retaining wall would match the current wall line and have the same encroachment. A variance of 5' is required for the side yard setback and a variance of 10' is required for the 30' rear yard setback. A height variance is also requested because the extended retaining wall would go into the hillside.

Chairman Forshaw introduced the following exhibits to be entered into the record:

Exhibit A – Zoning Ordinance 1175, as amended;

Exhibit B – Public Notice of the Hearing;

Exhibit C – Letter of Denial dated August 5, 2019;

Exhibit D – List of Residents sent notice of meeting;

Exhibit E – Letter from the resident requesting the variance dated August 5, 2019;

Exhibit F – Entire file relating to the application

Kelly Kenter took the oath, was sworn in and addressed the Board as the contractor for the project. He stated that parking is a hardship. Space is tight because the driveway to the residence adjoins the driveway of the neighbor to the north. The lot is at a low spot in the subdivision, receives a lot of runoff from adjacent properties, and is very limited as to grade changes.

Paula Coughlin, 14 Granada Way, took the oath, was sworn in and addressed the Board. She has had sixteen months of frustration with the project causing water issues and trespassing into her yard. She is frustrated with the lack of communication and respect from those working on the project.

Debbie Gerardi, took the oath, was sworn in and addressed the Board. She is the neighbor to the north and has a driveway adjacent to the driveway on 16 Granada Way. She has no issue with the variance but would like assurance that she will have no liability with the wall. Chairman Forshaw informed her that this would need to be a private agreement and could not be addressed by the Board.

James McKelvey was sworn in and addressed the Board. He is the homeowner of 16 Granada Way. He acknowledged that the project has been a mess and has taken much longer than expected. His family is not currently living there. He asked to be contacted if problems arise and agreed to take responsibility for the wall. He noted that Granada Way is a narrow street and the subdivision residents consider off-street parking preferable to on-street parking. Furthermore, back-yard parking is considered visually preferable to front-yard parking. The purpose of the proposed retaining wall extension is to enable him to have back-yard parking.

Chairman Forshaw observed that while there seem to have been some communication problems with the neighbors, the property previously had serious drainage issues and a distressed garage, which have been greatly improved by the overall project. She offered to grant a continuance to allow Ms. Gerardi time to work out a written agreement with Mr. McKelvey regarding his responsibility for the retaining wall, but Ms. Gerardi did not want to do anything to slow down completion of the project.

After discussion of the facts presented, including the desire of the landowner most affected by the retaining wall to see the project completed promptly, Board members found that practical difficulties exist. Ms. Long made a motion to overturn the decision of the Building Commissioner and grant the variance. Mr. Schlafly seconded the motion. The vote was as follows:

Chairman Liza Forshaw	“approve”
Mr. Lee Rottmann	“approve”
Ms. Laura Long	“approve”
Mr. David Schlafly	“approve”
Ms. Elizabeth Panke	“approve”

With five (5) votes in favor and zero (0) against, the motion passed, the variance was granted, and the ruling of the Building Commissioner was overturned.

Adjournment

At 5:15pm Mr. Schlafly made a motion to Adjourn the meeting. Ms. Panke seconded the motion. A unanimous vote in favor was taken.

DOCKET 1274

DATE OF HEARING	September 3, 2019
NAME	Kelly Kenter
DESCRIPTION OF PROPERTY	16 Granada Way
CAUSE FOR APPEAL	Petitioner is requesting relief from the Building Commissioner denying a retaining wall which is in violation of Ordinance #1175, Section IV-F-1 and Section IV- F-3 due to setback and height requirements.
RULING OF THE BOARD	After discussion, on the basis of the evidence presented, the Board finds that practical difficulties exist, the decision of the Building Commissioner is overturned, and the variance is granted.

Ms. Liza Forshaw, Chairman