

**MINUTES OF MEETING  
ZONING BOARD OF ADJUSTMENT  
OCTOBER 1, 2019, 4:00PM**

**DOCKET 1276**

**6 RIO VISTA DRIVE**

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Tuesday, October 1, 2019 at City Hall.

The following members of the board were present:

Chairman Liza Forshaw  
Ms. Kristen Holton  
Ms. Laura Long  
Ms. Elizabeth Panke  
Mr. Lee Rottmann

Also present were: Erin Seele, City Attorney; Anne Lamitola, Director of Public Works; Andrea Sukanek, City Planner; Mark Koester, Storm Water Engineer; Roger Stewart, Building Commissioner; Councilmembers John Fox and Stacey Kamps; Mayor Spewak; and Administrative Assistant Lori Wrobel.

Chairman Forshaw called the meeting to order at 4:15 p.m.

**Approval and Adoption of the Agenda**

Ms. Long made a motion to adopt the agenda. Mr. Rottmann seconded the motion. All those present were in favor and the agenda was approved.

**Approval of the Minutes from the September 3, 201 meeting**

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

**Docket 1276** Petition submitted by Michael Ellenhorn for the property at 6 Rio Vista Drive. Petitioner is requesting relief from the Building Commissioner denying a driveway and patio due to storm water run-off in violation of Section 110-148 and due to the violation of the green space requirement per Ordinance 1175, Section V-G.

Mr. Stewart stated the applicant requests a variance due to the storm water runoff violation and the violation of the required green space. The home is in the D residential district, which requires 55% green space, with maximum coverage by pavement/structures limited to 30% of the front and rear yards and 25% of side yards.. The driveway and patio were constructed without permits. As built, the coverage of the left side yard is 92% and the coverage of the rear yard is 86%.

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

City stormwater engineer Mark Koester stated the runoff goes into the creek. This problem could have been avoided if the appellant had used an underground dry well. The back yard drains to a 36-inch storm sewer. The pipe is partially blocked by the construction. Heavy rainwater will build up and flood the surrounding area and affect neighboring properties.

Michael Ellenhorn took the oath and was sworn in. He said his yard is at the lowest point in a drainage area of 238 acres. All the storm water drains into his yard and his home. Over the past nine years he has had several flooding events which have caused the retaining wall to fail and shifted the sewer lateral line. During storms he tries to clean out the creek area to keep the water flowing downstream. His property in effect serves as a water detention pond. His front yard becomes a lake. In an attempt to move the water past his home without flooding it, he added the patio and driveway. He widened the pipe and installed a curb to efficiently move water. He agrees with the City green space requirements but was trying to solve a problem. He did not realize a permit was needed. He served as his own general contractor and hired a concrete firm to lay the concrete. He is supportive of the City's storm water plan but would like to have a chance to keep his home from flooding.

Jay Vance of Vance Engineering took the oath. He was appearing on behalf of the appellant, as an engineer hired after the project was done. He stated the water comes down over the concrete through the yard. There is no erosion or grass damage. The wall was built with a permit, while the concrete was done without a permit. A lot of water ponds in the front, up to ten feet deep, and the concrete helps to channel the water away from the house and toward the creek. Permeable pavers would not supply enough greenspace credit to comply with the zoning code. He would not have recommended doing the work without a permit.

Adrienne Hirschfeld took the oath and addressed the Board. She has lived on Rio Vista Drive, across from the appellant, for 38 years. She understands why the Ellenhorns feel at their wit's end about their water problem. She hopes the Ellenhorns will not have to take the patio out and start over.

Mr. Koester stated he had not made a prior visit, but the topographic information shows the wall has been raised since a permit for the wall was issued in 2017.

After discussion of the facts presented, including the greenspace requirement, the magnitude of the variance requested, the real water problems at the site, and the permit process, Ms. Long made a motion to overturn the decision of the Building Commissioner and grant the variance for the driveway and patio. Ms. Panke seconded the motion. The vote was as follows:

Chairman Liza Forshaw	"not in favor"
Mr. Kristen Holton	"not in favor"
Ms. Laura Long	"not in favor"
Ms. Elizabeth Panke	"not in favor"
Mr. Lee Rottmann	"not in favor"

With zero (0) votes in favor and five (5) against, the motion failed, the variance was not granted, and the ruling of the Building Commissioner stands.

**Adjournment**

At 6:45 p.m. Ms. Long made a motion to Adjourn the meeting. Ms. Panke seconded the motion. A unanimous vote in favor was taken.

