

BOARD OF ZONING APPEALS

JEFF GAYNOR, CHAIRPERSON, REMY ARNESS,
GARY LONG, CLAIRE MOORE, JOANN McEWEN

Jeff Gaynor brought the meeting of August 9, 2017 to order at 7:00 p.m

R/C: Jeff Gaynor – here, Remy Arness – here, Joann McEwen-here, Gary Long-here and Claire Moore-here. Thank you, record will show that we do have a quorum this evening. Is there any old business the Board needs to do now? Under new business we have Variance request 2017 BZA 04 for Ken O'Donnell 7677 Peck Rd. Ravenna, Ohio. He is requesting a variance to allow at 8 foot fence in his side yard and a 6 foot fence in his front yard. The variance continues for a request to not have to put a fence around his pool which has a locked gate. Is Mr. O'Donnell here? Would you step forward please and you might want to drag that chair up with you. If you have something you want to be recorded in this evenings minutes you must be recorded in this area here. Comments from the back of the room will not be recorded or entered into the minutes, the Chair also request that interruptions don't occur. Swears in Ken O'Donnell of 7677 Peck Rd., Ravenna.

Jeff: Thank you, I noticed from this very nice picture you sent us that this fence that you are requesting a variance is already in existence. We you unaware that there is zoning restrictions and codes for the township?

Ken: I did not know beforehand.

Jeff: How did we hear about this 8 foot high fence? We being the Board and the Zoning Department.

Ken: My guess is the neighbors complained.

Jeff: Ok, you are not really sure then of just what happened? How long has the fence been up?

Ken: A month or two.

Jeff: It appears from your application that there is some strife between yourself and the neighbors, that's accurate? How far from that chain linked fence would you say your fence is located?

Ken: 7 inch

Jeff: That makes it pretty difficult to get in even to maintain either the chain linked fence or your wood fence, doesn't it?

Ken: It has never been maintained in the thirteen years we have been there.

Gary: We are talking about your fence

Ken: Ok, that shouldn't require much maintenance. But I can do it.

Gary: Without trespassing on your neighbors?

Ken: Right, the chain linked fence has been there since 2006 or whatever.

Jeff: We request and require names and address of properties within 500 feet of the property of the applicant. I only see 5 properties listed here on Peck Road and nothing on Lake Rockwell Road.

Ken: The house on Lake Rockwell is vacant, there is nobody there. I think it was from the fence that is why I didn't count all those too. The fence is on Peck Road and the next house there is nobody there.

Jeff: Which one are you talking about? Pointing to map. Draw a quick line on this map to show where approximately the fence is on that map. How long is the fence?

Ken: Approximately 150 feet.

Jeff: This property is 1600 feet?

Ken: Yes

Jeff: So the fence doesn't extend any of the properties on Peck Rd? Is that accurate, it doesn't a join.....

Ken: Along Lake Rockwell Road.

Jeff: I'm sorry along Lake Rockwell that is what I meant.

Claire: Does it stop at the corner of the garage there?

Ken: It stops right there. Points to the picture

Jeff: Who erected the fence?

Ken: I did

Jeff: Anything from any other Board members at this point?

Remy: Does that chain linked fence run around the length of your fence?

Ken: Yes

Remy: The entire 150 feet?

Ken: Farther back

Remy: So basically right along your property line is the chain linked fence?

Ken: Yes

Jeff: The fence probably goes to the end of their property as this point?

Ken: Yes

Jeff: So their chain linked fence will be something like that. Points to the picture. You're not concerned about the possible necessity of maintaining your fence and it being very difficult to get to?

Ken: No

Gary: How would you go about doing that without being on his property?

Ken: If I had to, I would take boards off and do whatever had to be done.

Claire: I feel like we are missing part of this story. You're here because you need a variance for the fence that is up, correct?

Ken: Correct

Claire: How did we get here Jim? Why.....

Jeff: Excuse me. Our Zoning Inspector, Jim DiPaola, is going to make comments, he needs to be sworn in. Swears in Jim DiPaola, Zoning Inspector.

Claire: So how did we get here?

Jim: I investigated a complaint about a fence, I went out and looked

Claire: The wooden fence?

Jim: Yes, the wooden fence. Found that the wooden fence exceeded the height restrictions of the Zoning code. Then where the 8 foot would have to be 6 foot and everything from the front corner of his house to the east and anything that would be put in there would be 4 foot because that would be the front yard area.

Gary: Jim, is that the two numbers you gave us 6 foot 6 and 4 foot 6 is that correct?

Jim: Yes

Claire: I don't know if you know this. But was the complaint made because of the height of the fence or because it was up against the chain linked fence?

Jim: The height.

Jeff: Is that complainant here this evening? Thank you. The complainant is here.

Ken: The 6 foot is in his back yard is obstructing nothing. My front yard.....

Claire: Whose house is that?

Ken: That's his house.

Jeff: His being the person that complained about your 8 foot fence? What is his name please?

Ken: Nick Niro

Jeff: So that is Nick Niro's house, the neighbor who owns the chain linked fence and made the complaint about the 8 foot tall fence? Is there some strife between yourself and Mr. Niro?

Ken: Yes, there seems to be a lot of strife for whatever reason. Mostly the biggest complaint is their dogs bark all day and all night. They let them out at midnight on a regular bases. I work in the morning, my kids work in the morning, my wife works in the morning the dogs are barking at midnight

keeping us up. That is part of the problem. Every time we go outside the dogs are barking and they do not stop, ever.

Jeff: Does the fence eliminate that situation?

Ken: The fence greatly reduces that situation.

Jeff: Well, a 6 foot 6 fence would probably keep you out of the sight of the dogs also.

Ken: But, his property kind of goes up a little bit so they can still see over and this 6 foot fence, if he actually wanted to put that 6 foot fence up would be ok, so how's it not ok for me to put that 6 foot fence up? It's 200 feet from the road, it's obstructing nothing, it's not even near his driveway, it's not near his yard, his house anything.

Jeff: Well, if the fence were a foot north of where it is and on the neighbor's property it would clear a 6 foot fence because it's his property. Interesting point.

Gary: First of all, this Zoning Board of Appeals is not here to solve or satisfy any domestic feuds. This mission of this Board is to protect the citizenship of the township. The resolution says that the maximum height of the fence in the rear on this particular case is 6 foot 6 and the height in the front is 4 foot 6 that is the resolution. What you and your neighbor's problems are, I could care less. That is something that you and the Sherriff's department or whomever could solve.

Jeff: Do you know the setback of your house? How far is your house from the road?

Ken: About 3 or 4 hundred feet back. 350 probably.

Jeff: So your house is over here somewhere probably? Points to the picture. Questions comments? Thoughts on how to fix this situation?

Ken: It is causing the dogs to keep quieter, it's much more privacy and it's not obstructing anything.

Jeff: Has Mr. Niro spoken to you personally about the fence?

Ken: No.

Jeff: I will ask you to step back and remember that you are under oath. We will have you back up here probably later. Who from the neighbors would like to speak? One at a time. Swears in Nick Niro of 7699 Peck Rd.

Jeff: You are a direct neighbor?

Nick: Yes, I'm on the north side of his house.

Jeff: Where were you when this fence was being constructed?

Nick: I was there in my yard. I told Mr. O'Donnell to find out about the Zoning Code, because I noticed that when he was putting all the post up that they were 10 feet tall. So I figured he was going to put a taller fence more than 4 and 6. So I tell him about it and he brushed me off saying don't worry about it, I know what I'm doing. So he knew before he put the fence up. He tell you he didn't know about code but he knew. So he knew because I tell him about it. Before he even pour the cement and the post hole.

Jeff: So he had at least an informal knowledge of the existence of the code?

Claire: So the issue with the fence actually the height of it or that you don't get along with your neighbors?

Nick: Both, Mr. O'Donnell is a bully. Somebody going to put him in his place, he do whatever he wants with no regard to anybody else. If I go by what the Code say, I put in a chain link fence. I have spent \$6,000.00 when we put the fence up he come over and say hey, what's with the fence. I say we got a two dogs and they like to run around play around so I put a 4 foot chain link fence in the back yard and put it up anyway we go by the code and everything. So, you have more questions for me? I have pictures here, passes out pictures.

Jeff: These pictures of your property looking from the outside you might say of the 8 foot fence and your chain linked fence and Mr. O' Dannel's garage.

Gary: How close is your chain linked fence to the wood fence?

Nick: Very close 6 or 7 inch. Now you cannot pull the grass between the fence and it is a nuisance to get to it, before Mr. O'Donnell's fence there is rocks and dirt and is a nuisance and now my fence is here on one side, I ask if he will take care of it three times and three times he told me don't bother and to mind your own business. That will be taken care of I know you will complain about that. (Looking at pictures) Discussion of pictures of chain link fence and Mr. O'Donnell's garage. He dumb the snow over on my chain link fence and in my yard. After three times I thought then we won't get along. So I ask him please don't do that, because he did not ask me if he would have ask me about it, if he would ask me to do that I would have told him just be careful with the fence. So, one time he did not do that and the second time he do that, I called the police.

Gary: What happened?

Nick: The police went to there and make him stop. Told him not do that no more. He listened, he got a front loader he was cleaning from his barn and putting on my side the property there is a pile on my chain link fence. So he wants to do whatever he wants to do. He no want to listen to nobody. We try to be nice to them, but he no want to listen to nobody, he no want to take care of my chain link fence. The first time I call the police and since then he doesn't do that no more. But, what he do now, last year, when there snow he push it next to my chimney, like I say he is a bully, he do what he wants he thinks he's above everybody else.

Jeff: Well, you shouldn't put your snow on somebody else's fence that is for sure. Well, the wood fence would prevent that wouldn't it?

Nick: Yea, I clear the nuisance, now the brush to see some of those pitch plants are about this tall, I can't get to it to clean and before the fence went up he never trimmed it and I didn't want to go on his property to trim the brush. I never maintained that. So now I know the wood fence there, every time I look that fence it makes me feel I am next to junk yard. That is a 8 foot fence up so that it camouflage you can't see the junk cars and everything. That's the way I feel. We move out there in the country so we have open space.

Jeff: A question for our Zoning Inspector. Does the book say anything about which side the fence goes inside or out?

Jim: Nope

Jeff: I didn't think so. Just wanted to check

Claire: So is your wish that the wooden fence come down completely?

Nick: No,

Claire: So you don't care that the wooden fence is there you just want it to be within code?

Nick: That's right

Jeff: It's still going to be pretty close

Gary: It can be on the line, right Jim?

Jim: It can be right on the line, but when anybody calls and ask we advise them to keep it at least a foot from the property line for maintenance. I can tell that the issues we have had with other fences that the Zoning Commission is going to get something for the Zoning Code to change it so that it is at least a foot off the property line.

Gary: Ok, how long has this wooden fence been in existence?

Nick: Probably the end of June or the beginning of July.

Gary: So, about a month and a half or two months?

Nick: Yes

Gary: How have you been weed eating it?

Nick: I weed it my fence on my side

Gary: What about the weeds in between the two fences? How's that being maintained?

Nick: You can't maintain it now because the other fence is up you can't maintain.

Gary: Thank you

Nick: You got 5 or 6 inch....

Gary: You answered the question, thank you

Remy: Did you have a survey done when you put in your chain linked fence?

Nick: No, I did not have a survey done, but I have stakes down in the back and all the way the area of the yard.

Gary: Pins?

Nick: Yea pins. I followed the installer, because it was a professional installer. I want to make sure, I don't want to step on anybody's foot.

Remy: So, you're saying it is 6 inches from your chain linked to the edge of your property?

Nick: Yes

Jeff: Ok, if you would step back please, the lady wished to speak. Swears in Cathy Niro, 7699 Peck Road, Ravenna Township. Mr. Niro's wife?

Cathy: yes,

Jeff: Thanks you, your comments please.

Cathy: My comments are that when Mr. O'Donnell sat here before you, he actually lied to each and every one of you, I just want you to know that. The dogs are not barking 24/7 that would be ludicrous, you can come over and listen and you would see that it is not like that. It's not like that they bark at birds, squirrels, or a possum one time and I can't help that and they are not out at night, they are out at 10 or 11 maybe, even if they are out at midnight, they are not barking. So he really stretched that, I don't know why he sat here and lied to you like that. He lied to each and every one of you and do you know you Board member would love to be neighbor of mine each and every one of you. You would see these two little 10 month hound dogs don't bark hardly at all, they just don't like pets and they don't like us, they didn't want a house built there, they didn't want a fence up. But, when you come over the fence and you yell explicit that is wrong when you have family there that is wrong to do that. When you come over to the fence and shake your arm and your fist, even though it was a while back. at my husband, that's wrong. There has to be an anger problem or something.

Claire: As we stated earlier we are not here to resolve the issues between you.

Cathy: I know, thank you for letting me say what I did say.

Claire: We just need to hear what your grievances are as far as the zoning issues.

Cathy: He should have to abide by the law and put it up to 6 foot. I just want them, Mr. O'Donnell to leave us alone that is my main thing. If that fence, whatever size a 4 feet or whatever you allow I just want it to be that way I don't have to.....so he shows respect for me and my dogs. I'd rather see the fence than him. That's my point.

Jeff: Mr. O'Donnell's narrative, part of his request said that you have flood lights that shine into his back yard and house. Could you point out these flood lights?

Cathy: Really, they are the cheapest ones you could afford, they don't do much. (Points to the pictures where the flood lights are)

Gary: My question on the lights are how are they directed? Are they directed towards the fence or are they directed towards the ground?

Cathy: The ground, he's got a huge flood light and when that goes on it don't bother me, but it is big. I forgot where they are, can Nick show you? Looking at pictures. They are not bright at all, I wish they were bright, I worry about people who may crawl around your home at night that sort of thing.

Jeff: His narrative continues with these things and there are some other statements also. Our reason why the 8 foot fence and the 6 foot fence are necessary and it says this is working so far to keep peace and tranquility between the neighbors.

Cathy: Well, we're good people, my husband and I. We don't really have any connection with them, we tried in the past, it's always been cordial, no body yelled except when he yells explicative, but I mean we have always kept our coolness, we always have. We are not trouble and like I said they

even bothered the people that were working on our home. Well, Mr. O'Donnell did that's how much he didn't want that home there. He didn't want the fence up and he doesn't.....

Jeff: Ok, we are pretty much filling up our time with things that the Board doesn't have any control over. Any other comments, questions?

Nick: Points to the lights on the pictures. Lights are on only 2 or 3 minutes

Gary: Are they on timers?

Nick: No, they turn on when there you want them on. Still pointing to pictures about the light

Gary: How are they directed? Are they directed straight out against the fence like that or are they directed towards the ground?

Nick: Mostly they are mostly toward our back yard.

Gary: How much of your back yard 10 feet, 15 feet, 25 feet?

Nick: I say probably in back yard it is probably 200 feet. The lights 50 to 75 feet. You got light in the front too. The lights go on, what's the big deal about it? He got lights too, they are motion light and every time they pull in they are motion light and every time they come in they come on. Ours they have to hit the switch and they only stay on a couple of minutes.

Jeff: Swears in Courtney O'Donnell 7677 Peck Road. You are the daughter of the applicant?

Courtney: Correct. So pretty much like since we put the fence up it has increased a lot of tension, I feel like between my parents and our neighbors. Every time my brother and I have gone out to play basketball, they sent the dogs out they start to bark. Anytime we go out to play catch the dogs bark, with this fence, we have been allowed to go out in our back yard, play catch, play basketball, be kids. We go outside and enjoy the weather. We also are able to sit at the patio not see the dogs, not hear them and it has given us a lot more privacy. Also, with the flood lights, they do shine into the drive and reflect directly into my bedroom window and therefore I cannot sleep. Every time we come up the driveway if I am coming home a little bit later, their lights come straight on and the dogs come out as soon as I pull up the driveway.

Jeff: Ok,

Courtney: So I feel that the fence has provided a lot more privacy, it's made it a lot easier to sleep because it has been a lot quieter and it's been a lot better since the fence's been up. I mean if you are talking about the height of it that does stop the flood lights, because they are kind of high so the 8 foot stops the flood light from shining in through the window.

Jeff: Ok are you done?

Courtney: That's all I got

Jeff: So the dogs are out at midnight or the dogs are not out at midnight

Courtney: Sometimes they are, not every night, but often times they are.

Jeff: Would Mr. Niro want to speak again. You need to come up here please. Please bear in mind that this Board is not designed or intended or interested in stopping a neighborhood feud. Our interest is whether or not this fence should continue in existence.

Nick: They complain about my dogs, they say the 8 foot fence they don't have to see the dogs, blah, blah, blah. Six foot fence would do just as good, because my dogs are, we got a beagle and miniature collie and they won't be able to see who come in or whatever, about the dogs we let out when they are playing basketball it's not so. The dogs are already out because we got a fenced in yard and they go out to play. If they come out to play basketball, the dogs are already out. So why don't you go back in until we get the dogs in and then you go out to play basketball. About my dogs barking, they playing basketball the ball goes boom, boom, boom we are not complaining that's a 6 foot fence would keep the dogs from out of their face. This house is under 50 feet, the back yard is under 75. So the house is about 200 from the street.

Remy: What is the distance from your house to the back your back yard like?

Nick: 50 feet or 60 feet we measure.

Jeff: Your house is 50 or 60 feet from the property line. No pet pictures please. Anyone else from the Board?

Gary: I would like to recall Jim, please. Jim enlighten me a little bit about light pollution. I can't seem to put my finger on it here.

Jim: Performance standings, outdoor lighting page 230.

Jeff: Mrs Niro you would like to speak please?

Cathy: What Courtney said is not true because they do not bark all the time, they're acting like they bark about all the time, I know it's about the fence and the fence probably does muffle out, I do agree with that, because a privacy fence can muffle out some noise regardless of the height it can muffle out some noise from anything. But, I want you to know that you are under oath and that is not all true what they are saying it's not all the time.

Jeff: That happens a lot here. Both sides, it's a long story. The other gentleman here wishes to speak. Swears in Nick Niro Jr. 9260 Shady Lake Drive, Streetsboro. You do not live back there?

Nick Jr.: No

Jeff: The nature of your comments please.

Nick Jr: I want to reiterate and get back on the main focus here. About the height of the fence, a codes a code there are codes for a reason. If the code is 6 feet 6 inches that is what you are supposed to go by, if it is 4 feet 6 inches in the front that is what you go by, you don't go by 6.6 and you don't go by 8.6. I know their talking about the dogs muffling the sound. The dogs, first of all like my Dad said they are short. I don't care if it is an 8 foot fence or a 6 foot fence it's not going to block the sound of dogs barking, it's not a sound proof fence. So their whole point of staying away from the dogs barking it's not going to cure anything. That fence could be 6 feet by now and they would still hear the dogs bark. I think it is just a matter of O'Donnell having his way, I mean he is known for that, he wants to do what he wants to do and he doesn't care about the code. A codes a code and he's violated it and it is so close to my parents chain linked fence if my parents walk over to the other property then can't trim it, they're not going to do that and he can't get in there, who is going to maintain all the weeds?

Jeff: Our code book does say if you erect a fence you have to maintain it and we believe that doesn't exist in this particular case. Do you have a solution to that particular problem?

Nick Jr: He will have to take his fence down and move it back at least a foot and cut two feet off the top.

Claire: But then your parent's fence is only 6 inches from the property line also.

Nick Jr: But that's legal. My parents have at least 6 inches from their side just to make sure they are where they need to be. That is all I have to offer.

Jeff: Ok,

Nick: One more comment please. About the berm, if somebody put a berm in the property because his is afraid of the rain and all from my yard would drain in his yard. So he put a ply board along the fence. I'm not complain about that. He is supposed to maintain this? But the code say you can put one up as long as you can see the road and all that. There are leaves that are five feet tall when I cut the grass on my side, I get scratched up he never cut the grass those weeds are about five feet to six feet high.

Jeff: This is along the fence?

Nick: No, this is front yard.

Jeff: No, that is ok for now I understand that there is a berm there, is that what you are saying?

Nick: Yea, he put a board there to stop.....

Jeff: So, it is not on the fence?

Nick: No it is front yard. Points to picture. It looks like not to good. Thank you

Jeff: Mr. O'Donnell you look like you would like to speak again.

Ken: This is a petition everybody in the neighborhood signed here, all but one that didn't want to get involved, that have no objection to it at all.

Gary: Are they all within 500 feet of this property?

Ken: Yes

Jeff: Jim would you consider it a problem or not that we don't have a complete list of the other property's within 500 feet? Ok, no problem. Anyone else at the moment?

Remy: Jim could you address the swimming pool?

Jeff: I would like to wait on that one. Let's make a decision on this. I don't know if we can handle both of these under one request anyhow.

Jim: No, they are two separate items.

Jeff: We don't have the pool request dated separately though in our paper work. So how are we going to address that tonight?

Jim: You make a separate resolution for each.

Jeff: Before we take a break, I think both parties are guilty of the lighting thing, it specifically says in the resolution and I won't read it all. The light pollution which creates miss directed light avoidable and reflected light, light during hours when it is not needed, light levels in excess of what is necessary for the task shall be considered a public nuisance and prohibited. If your lights are shining in his property your guilty, if your lights are shining in his property your guilty, they need to be buffered, they need to have reflectors on them, and they need to be directed towards the ground so they don't pass over into one another's properties. That's all I got to say about that. You can handle that any way you want to. My definition is that reflectors should face down. Read the resolution and Jim will enforce it. Let's take a break, I move we take a break

Jeff: Second. Back from break. Anybody have anything to say that has not been heard already?

Ken: Along our road there are two house that have six foot fence in their front yard. So it's not lie it is something that is unique.

Gary: I'm really thrilled that this neighborhood does things without checking with the Zoning Board.

Remy: It could have been a prior....

Jeff: It's hard to tell they might have been done before the voting resolution was in active, we can have no control of that at this point. We do have a question. Where is your house relative to the front of the garage?

Ken: Point to the picture and discussion where it ends.

Jeff: Mr. Niro

Nick: He got a petition from the neighbors saying the fence don't bother them, of course it don't bother them, they can't see the fence. The guys across the street from O'Donnell, he see the fence, but he don't see the fence on the side. They don't see the junk.

Jeff: Once again we can't do anything about other existing fences that haven't been brought before us for whatever reason.

Nick: But, this happen just when Mr. O'Donnell put his fence up. He is leaving us the option. He put up an 8 foot fence he ought to take it down, that's the zoning Board find that out, he ought to put the fence up and then cut it down to bring it up to code, which was no 4 feet and 6 feet. If everybody leave their fence in the neighborhood then I don't think I want to live there. That is the reason why we move to the country. What does the pool have to do with anything?

Jeff: Two separate issues

Nick: He doesn't have a fence around the swimming pool he just build the fence on my side.

Nick Jr: Can I talk one more time? The rules don't say about an 8 foot fence and a 6 foot fence they talk about the flood light, they do face the ground. They are not facing up ad they are not facing towards their house and the other part of that would be if that fence is an issue. My parent's built the house in 2004. Those lights have been on the house since 2004. Why in the past month and a half did

they decide oh, they're shining into our windows? They are keeping us from sleeping. If there was a problem like that where they are keeping them up and you can't sleep. You should have said something back in 2004?

Jeff: Ok anything else we need to put on that for a motion?

Gary: I don't think so.

Jeff: Any more items you would like to add to a motion?

Ken: Can I say one more thing? As far as the meeting of them he said the house has been there 06 Or 05 whatever, he has never done anything to that fence the whole time and I refuse to do it. So nothing has been done to that whole fence in that whole time. It is just keeping the peace in the whole neighborhood. That's it thank you

Jeff: Ok anything else from anyone? Well, we are ready to make a motion pertaining to this request. The Chair will make the motion. The motion is that both parties redirect their lights just a little bit to attempt to elevate the situation with the lights shining into the house, even if you don't think they do now perhaps from the other property it looks like they do so some adjustments there on both sides please, we are asking you to be good neighbors here. The pictures do show piles of dirt on Mr. Niro's fence coming from Mr. O'Donnell's property those need to be taken care of so the Mr. Niro's fence is not infringed upon. We are going to have to appeal what may or may not be your better natures on how to maintain the space between the fences. Something needs to be done there, I don't know how close Mr. O'Donnell's fence is to the property line, if Mr. Niro's fence is the six inches away like he has said, technically that is his property there, but you both need to work together a little bit on, and I don't know how, try and work it out that you can maintain that little strip of land in between the fences and finally it is the opinion of the Board that Mr. O'Donnell's fence needs to be modified to fit the building code. Which means the area behind the front line of the house can be six feet six inches high and the area the length of the fence in front of the front line of the house can no more than 4 feet 6 inches high.

Remy: I second. R/C: Claire Moore – yes, Gary Long – yes, Joanne McEwen – yes, Remy Arness - yes, Jeff Gaynor – yes. Motion passed

Jeff: Your request to maintain the 8 foot fence and the 6 feet tall fence has been denied, you need to get with the building inspector and see that the fence is modified to match that Zoning Resolution. There is an appeal period during which interested parties can appeal this decision to the courts that is up to you. Any other actions taken before that time are at your risk. Now, the question of the pool. Can we address that at this time?

Jim: You sure can.

Jeff: We are calling now the question of the fence locking gate and etc. around the pool, this will be variance request 2017 BZA 05 requesting that we do not have to put a fence around the pool because it has a locked gate. This is Mr. O'Donnell's pool is that correct? Step forward please and recall that you are sworn in please. Do we have pictures of the pool?

Ken: No, You can see a little bit in one of Mr. Niro's pictures. Looks at the picture of the pool

Jeff: The height of the fence that is required around the pool is 4.6. How deep is your pool and how tall is your pool?

Ken: 62 inches

Remy: Is that a permanent pool? I doesn't come down?

Ken: It doesn't come down.

Jeff: We require a separate fence around the outside of the pool is that accurate?

Jim: You can have a fence around the pool or you can attach it to the pool.

Jeff: So for the over haul height needs to be 62 inches is that accurate?

Gary: That's from the ground to the top of the fence?

Jim: From the ground to the top of the fence or if it top of the pool it would have to be that high. Some people put a deck up to their pool so you still have to maintain that 52 inches around and if you attach it to the pool it's the 52 inches above the pool or if you put it in your yard it is 52 inches from the ground level to the of the deck. Has to have a locking gate on it or a ladder.

Gary: It has to have more than a locking gate. The Code says it shall be equipped with a self-closing and self-latching device with a lock.

Jim: Usually when people come to us about a pool we also advise them to talk to their insurance company.

Gary: Yes, I was just going to mention that because, we will not approve anything beyond what this code says for your liability purposes and the code says that you need a four foot fence above the pool you need self-latching, self-closing latch.

Ken: It is self-latching and self-closing

Gary: So you are ok there, but not on the fence and it's all the way around the pool. I think your insurance company will tell you that.

Ken: The pool is as high as the fence would be why would it?

Gary: We don't write the rules.

Ken: The fence will be the exact same height as the pool.

Gary: I think if you want to explain that again Jim. I think it's above the pool.

Jim: Correct, for the area into the pool area. If it's in your back yard, it has to be a 4 foot fence no matter where the pool is and for us that is enclosed or you can attach it to the pool. It would have to be the same height from the top of the pool 52 inches.

Remy: So there are two ways to meet the Code, you can either extend how you have you deck there continue that fence around the top between 4 foot and 6 foot or you could build a separate enclosure completely around the pool with a gate and latch, it's for safety, children have been known to get into the swimming pool.....

Ken: It's just put a fence up around the inside of the pool is that right? I'm doing that. I'm not putting anymore fences up. I hate fences truthfully

Claire: Well, the fence around the pool is for everyone's protection.

Ken: I understand, but I'm not putting a fence up I'm putting vinyl around the outside.

Jeff: Well, then that sounds like it would meet the code and we want to make sure that it does, perhaps confer with Mr. DiPaola, before you build anything there and show him the plans there and do I have a motion pertaining to this second application then about the building the fence which would probably say it needs to meet the code, which Mr. O'Donnell sounds like in agreement here.

Remy: I move we accept 2017 BZA 05 for Mr. O'Donnell to build a fence per code around the existing permanent pool with a fence of 4 to 6 feet with a self-latching, self-closing gate as long as it meets the code and is inspected by our Zoning Inspector.

Jeff: I'll second that motion. R/C: Remy Arness – yes, Jeff Gaynor – yes, Gary Long – yes, Joanne McEwen – yes, and Claire Moore – yes. Motion passed

Jeff: The basic work of the Board is done and the Board have somethings to do which are not all that much fun to watch. You folks are welcome to stay or leave as you desire. Try and get along. Thank you

Jeff: We need to journalize our two decisions this evening, do I hear a motion to journalize 2017 BZA 04

Remy: I so move

Gary: Second R/C: Gary Long – yes, Claire Moore – yes, Joanne McEwen – yes, Jeff Gaynor – yes, and Remy Arness – yes. Motion passed

Jeff: We need a motion to journalize 2017 BZA 05 about the swimming pool.

Joann: So move

Jeff: Second R/C: Joann McEwen – yes, Claire Moore – yes, Gary Long – yes, Jeff Gaynor – yes, and Remy Arness – yes. Motion passed

Jeff: Do I hear a motion to approve the minutes from the last meeting as they were presented to us?

Claire: I move we accept the minutes

Remy: I second R/C: Remy Arness – yes, Gary Long – abstain, Claire More – yes, Joann McEwen – yes, and Jeff Gaynor – yes.

Jeff: Do I hear a motion to adjourn?

Gary: so move

Meeting was adjourned at 8:15.

Respectfully submitted

**Carolyn Chambers
Zoning Secretary**

**CC: Trustees (3)
BZA (5)
Zoning Inspector
File**