

an installed sports court at 16' from side yard property line where 20' minimum is required, and an installed fence at 79" in height. Mr. Salomon said that both of those statements have been stated correctly, and they have both been installed and the gentleman moved the basketball court back further than what was intended to avoid the well, and Mr. Purpuro brought it to his attention, and it provides a hardship because the entire court would need to be cut and removed down, and the neighbors has been spoken with and there were no issues and as far as the fence goes, it is a partition around the pool, and the fence is of height due to religious purposes, and 72" requirement makes the family uncomfortable when being in the pool, and at 79" it makes the family more comfortable. Mr. Salomon stated that the 72" was tried twice, however that height just didn't work, and it's not in anyone's way and it is nicely installed. Mr. Book stated the opportunity was taken to view the home from Bear Trail, and can it be reconciled the testimony verses the view, and what was noticed first from Bear Trail, was a basketball net that was facing the street, however the second hoop was not seen, is there only one hoop. Mr. Salomon said that was correct, it is a half court with only 1 basketball net. Mr. Book continued that after seeing the basketball court, there is the screen behind the court, and the screen has green netting, and what's confusing is the privacy that seems to be main concern in the application, however there are beautiful trees that are higher that surround the property and it appears those trees provide significant privacy and safety, so with that being said there is question as to what is the real privacy concern. Mr. Salomon stated the privacy is what is needed for the religious purposes, and the trees are not a problem, what's trying to be done is the people within the yard, and people visiting within the property or the home, and the 72" does not keep that level of comfort or privacy, the neighbors are not the concern, it's the people within the home for religious purposes. Mr. Book stated that the backyard could not be seen from the street, so as it pertains to the 79" fence, does it surround the entire pool. Mr. Salomon stated that 2 sides of the pool were enclosed by the 79" fence, and there are trees on either side. Mr. Book stated there have been other applications where religious practices have been brought forward, and there is the concern of safety, and the green screen is not able to be seen through and it's been raised about 6" or so, so there is question about what's being done for alarms, or sirens, so if someone comes within your property near the pool, what warns them about the pool. Mr. Salomon stated there are signs and charging ports in the event someone needs to contact someone right away, they could plug their phone in to assure there was enough battery to make a phone call. Mr. Book mentioned that there are alarms that are made, in the event a child falls in the alarm will go off, and asked has that every been looked into too, and would that be something that could be installed. Mr. Salomon advised that was an option, or the electric cover, and the cover was chosen, and the pool is covered every night, as he has 8 children and many grandchildren, and his wife demanded something be done because safety is a concern. Mr. Book asked if the cover can be explained. Mr. Salomon stated the pool is 20' x 42' rectangular pool, and it's the number 1 rated safety precaution, it's costly but it's safe, and there is a key used to close the cover which slides over the pool, and it holds 300 pounds and it provides a peaceful night of sleep. Ms. McIlhinney understands the pool cover however the concern is during the day time hours. Mr. Gertner stated there has been stipulations that an alarm be added to the fence around the pool, and the internal safety is being taken care of however there are trespassers, and the alarm will bring that extra step of safety. Ms. McIlhinney asked why the 79" was the height chosen. Mr. Salomon stated that is the height that worked for the people within the household. Mr. Gertner stated there has been a number of interpretations to the addition to existing fences and it's been made that based on the ordinance that it's a fence. Mr. Purpuro advised that the materials that are being used that raise the fence are not materials that are prohibited, so it all becomes a fence in definition. Mr. Peters asked if it can be indicated which portions surround the back of the house that are that height of 79". Mr. Salomon stated the fence that is 79" is on the property from Bear Trail at the back left property line. Mr. Peters stated sine this was already built, the Board needs to understand what is there, and asked has the fence been inspected by the town. Mr. Purpuro added that as part of the final inspection the building department will inspect before issuing the CO. Mr. Hurley mentioned that the extra height is needed so the pool cannot be seen from the house, and asked why the pool wouldn't want to be seen from the house. Mr. Salomon mentioned that the privacy is the concern, and the 6' fence wouldn't allow for an emergency to be seen, the extra 6" is for the women to be comfortable at the pool. Mr. Hurley asked if the 6' is ok, why the extra height is needed. Mr. Salomon stated that at 6' you can still see people in their bathing suits. Mr. Najarian asked since there are trees, can the 72" be lived with. Mr. Salomon mentioned that guests come over, and people are in the home, and meals are eaten outside and the women don't like to be seen when they are in the pool. Mr. Gertner stated it's been made clear this is due to religious purposes, and asked if the applicant is an ordained rabbi. Mr. Salomon confirmed that was correct. Mr. Gertner asked if the practice can be spoken about, because there is concern that 79" was chosen, and the neighbor has 77" and another can say 81", and there are certain standards of the margins, and why in this case is 79" the magic number, and the Boards goal is to mitigate the need for variances. Mr. Salomon stated that modesty is a premium in a Jewish family, and one thing it means is that the dress of people in the home has to be of a certain standard and it's part of the Jewish law, and it's meant for within the home, and people don't just walk around how they want, it's part of the value system, and we're old fashion and modesty is important, and 79" isn't a magic number it's the number where women feel comfortable enough to not be seen. Mr. Salomon advised that his wife went to the pool in her bathing suit while he stood in the kitchen, as no one will be going to the second floor should there be guested, and a 100' fence is not feasible, and the 79" is the comfort level.

Mr. Book announced that there will be a brief Recess taken at 7:55 p.m. as the I.T. representative are still working on the problem with having the public engage, the meeting was reconvened by Mr. Book at 8:16 p.m.

Opened to the public;

Anthony Monte- 4 Spectrum Court- sworn- asked if it's because the applicant is a rabbi, is that the reason why a fence that high is needed, when no one else does.

Mr. Salomon advised he is not aware of other people's situation, and cannot speak for anyone else, and according to the topography of his land, this is what needed, and other people might not have the same yard as him, as every house is different.

Jim Hugacko- 6 Spectrum Court- sworn- mentioned that it was stated that the applicant needs to have privacy from all 4 sides, and there is questions as to why the family needs to be private when the back is exposed, and there are other neighbors who are happy with 4' fences and there is no issues and they are of the same religion.

Mr. Salomon stated the back is situated on a hill, and although the fence is 5', it's higher due to the incline, and everyone practices differently.

Jim Hugacko- 6 Spectrum Court- had safety concerns because if someone jumps his fence to get onto the applicants property, no one will be able to see those people because the fence is 79" tall, and if that were to ever happen who will save those children with limited key access to the applicants' pool area.

Closed public comment

Mr. Salomon stated this Board has approved other variances for the same reasons, and if there are other situations that are different it would like to be heard. Mr. Hurley mentioned that if reading the survey correctly, it looks like the elevations are about 95' and the paved patio it's about 96'. Mr. Hill stated it's 96.5' which is 3 ½' lower than the first floor elevation. Mr. Costanzo asked if the fence is 72" and there is a material added, how that is attached to the fence. Mr. Salomon stated there are zip ties holding the material to the actual fence. Mr. Costanzo asked if the material will sag over time. Mr. Salomon mentioned that it's been there for about a year and a half, and still standing and firm. Mr. Costanzo stated the application is for 2 items, 1 is the asphalt basketball court which encroaches at approximately 4' where it shouldn't be, however the issue is the fence, this is a security landscaping issue, and the material cannot be pictured, and the modesty can be appreciated, however the 2 sides of the pool have existing landscaping to the West and the North. Mr. Najarian this board respects all religions, however there are plenty of children that have been taken to the ER because of drowning, and there is a safety issue. Mr. Hurley respects the conditions, however there is an obligation to the residents of this municipality, and the Zoning ordinance that was adopted by the council, and there are obligations where the applicant has to show the Board that he or she is entitled to the variances, and the height is a concern for a safety issue, and a view of the property from the street it looks like a green barrier, and the elevation for the height is a serious safety concern and that needs to be taken into account. The concern is one grandchild getting into the pool and floundering around, and no one will see it, and it was testified before that this is relative to the first floor and the second floor would have the same issue, and that is not a justification, and the first floor elevation according to the survey is 5' above the elevation of the walkway of the pool, and 6" added to the fence that puts you at 11', and there is no justification, and 6' is acceptable and if looking from the first floor there is an issue and there is no justification for that, and the other issue is the locked gate, should there be an emergency there is question as to who will get into the gated pool area, and the fence height makes it so no one will be able to get over the fence, and without it being able to be seen, the safety issues need to be addressed. Lastly there is a setback variance for a side yard, and the basketball court is already in place, and is it too expensive to relocate and the financial aspect is not a valid justification of the property. Mr. Borrelli had the same concerns as the fellow Board members, and mentioned that the concerns should always be the public health and safety, and the privacy is respected however the fence cannot be seen through and should something happen, there is liability on the Township. Ms. McIlhinney stated that even if the landscaping was put into place that wouldn't make it any more safe or unsafe, and it's been asked in the past that the fence be made see through, and the ordinance is for 72" and if safety is the concern, a 72" or 79" solid fence doesn't seem much safer. Mr. Book asked if the ordinance allows those fences to be opaque. Mr. Peters confirmed that is correct. Mr. Book asked how much does that 6" really matter, is it such a significant impact of the ordinance to allow someone with this applicants reason, being to violated that it somehow has an impact on the ordinance and the zoning plan, it's not as if there is a precedence being set however the safety is an issue and there has been a lot done in terms of the materials and the key, however the gate not being clear, and the alarm that was noted is an absolute necessity more the opacity, and the angle has been addressed and the points raised by other Board members, and the fence issue is one thing and the asphalt aspect it doesn't make sense to have the asphalt ripped up .

Mr. Hurley made a motion to approve the basketball court setback, with a denial on the height of the fence.

Motion to approve the basketball court at 16' from the side yard, and to deny the 79" fence around the pool by HURLEY/ Najarian. Yes: McIlhinney, Najarian, Hurley, Borrelli, Costanzo, Book.

Mr. Gertner announced for members of the public application number 1. Renee Bogart/ Glenn Knowles, Block 18502, Lot 55, 485 Toms River Road has been carried to the August 5, 2020 meeting which will begin at 7 p.m., and the applicant is aware that a new notice must be done.

3. Emanuel Esteves, Block 15805, Lot 1, 1 Morning Star Lane- Emanuel Esteves- property owner- sworn- advised he is asking for a 6' vinyl fence and a shed, and the main reason for the fence is for the safety of his children as the house is on a corner lot. Mr. Book mentioned that with the application there was a survey provided certified to the applicant and there is no date however this is what was done for your property. Mr. Gertner mentioned there is a certified date of April 28, 2014. Mr. Book stated as the survey is looked at, there is a highlighted portion as to where the fence is desired to go, and as someone faces the house from Morning Star Lane, the fence would be from the back of the driveway right to the house with 2 gates, and will proceed to Bennett's Mills Road, and along the rear property and coming up towards Morning Star Lane with a 90 degree turn to the center point of the house. Mr. Esteves noted the fence would be 21' from Bennett's Mills Road. Mr. Book mentioned that the property has been looked at, and there were some things that are not on the survey, 1 being a full court basketball court and a shed in the back yard. Mr. Book asked if the shed is Mr. Esteves's shed. Mr. Esteves advised that the shed is his neighbors, and he had an amended survey to depict the basketball court, and the basketball court will be within the fence line. Mr. Book

stated the shed being requested is a 10x16 shed, with no water, and no electricity. Mr. Esteves stated that information was correct, the shed will be for lawn mower storage. Ms. McIlhinney asked if the shed will have easier access because of the narrow shape of the property. Mr. Esteves stated the garage is on the left, so this is the only place it would make sense to have the shed. Mr. Hill mentioned that anything from the applicant's garage to Morning Star Lane is the front yard area, and from Bennett's Mills Road looking at the side of the house, looking at the garage is the front yard. Mr. Hurley mentioned that across the street, there is a solid fence, and asked if that similar to what is purposed. Mr. Esteves said it will be the same, and noted that he installed that fence as he is a fence contractor. Mr. Book asked if there is an issue where the fence is proposed. Mr. Hill stated the fence is not purposed to encroach the line of site, so there are no issues.

Opened to the public; seeing no one online, closed public portion

Motion to approve by NAJARIAN/ Hurley. Yes: McIlhinney, Najarian, Hurley, Borrelli, Costanzo, Book.

4. David S Jr and Robyn Reynolds, Block 12002, Lot 5, 66 Cedar Swamp Road- David and Robyn Reynolds- property owners- sworn- Looking to put a garage on the property, a 30' x 30' that will be 22' off one side and 22' off the other side, it will sit right in the middle. Mr. Book stated this is a unique piece of land, and from the vanish point it was un sure how the shed would fit, as the look was from the street, it's un sure, please depict how the shed will fit onto the property, because there was a truck and trailer, and there is question as to whether or not that is the applicants, because the right side of the property is not visible. Mr. Book also asked if the survey dated November 25, 1985 is still accurate. Mr. Reynolds mentioned that there has been an addition and a deck which was drawn in. Mr. Book asked if the desired garage will have electric, or water. Mr. Reynolds stated electric would be installed. Mr. Book asked what it for is. Mr. Reynolds stated the garage will be for 2 classic cars and 3 classic tractors that are in a garage on the other side of town, and since both of his parents have passed away, it would be nice to have the items on his own property. Mr. Book asked how the garage will be accessed. Mr. Reynolds mentioned that between the left property line and the fence there is a path. Mr. Book asked if that needs to be drawn out. Mr. Purpuro stated that all structures have a driveway at least 10' wide and there are no setbacks, just a 10' minimum. Mr. Book stated there needs to be gravel. Mr. Reynolds stated that is acceptable. Mr. Costanzo mentioned that the structure 30' x 30', and asked how high the garage would be. Mr. Reynolds provided a tentative stock image from a sales brochure. Mr. Gertner marked the brochure as **Exhibit A-1** sales brochure, and noted the "R7" is the basic design. Mr. Costanzo asked if this is a one story structure. Mr. Reynolds advised the Board that the garage has a barn style gambrel, and there is a roof pitch and a loft. Mr. Costanzo asked what the intended use of the loft area would be. Mr. Reynolds stated that space would be for patio furniture. Mr. Hill stated since there are no fully designed plans, there needs to be a maximum height of 25', and any utilities that may want to be installed in the future should be put on the record. Mr. Costanzo asked what the foundation would be. Mr. Reynolds stated a concrete pad. Mr. Costanzo asked if there has to be drainage. Mr. Hill mentioned that typically there should be gutters, and on larger pole barns larger dry wells are asked for, and down spouts would be recommended to avoid drainage to neighbors. Mr. Costanzo asked if there are other utilities that would be requested. Mr. Reynolds mentioned that he would like to in the future have gas ran to the garage. Mr. Costanzo confirmed the applicant was ok with a driveway. Mr. Hurley asked if there is a problem with the stream being crossed over to get onto the property. Mr. Hill stated the home was built prior to any regulations that are now in place. Mr. Borrelli noted there is an existing shed on the property. Mr. & Mrs. Reynolds advised that shed has been taken over by groundhogs and it's been there since the house was purchased and it's fallen apart. Mr. Gertner asked if that will be removed once the new garage is built. Mr. Reynolds said yes. Mr. Book stated the conditions that were addressed are as follows; natural gas is desired and no part will have living quarters, there will be electric run and the gravel driveway will be complied to and the height will be no higher than 25', the garage will be built on a concrete pad, and there should be gutters. Mr. Hill noted there is no requirement for dry wells just gutters. Mr. Book noted there is to be no commercial use. Mr. Gertner asked if the shed will be 22' from each property line and how far will the shed be from the existing dwelling. Mr. Reynolds stated approximately 80'-90'. Mr. Hill stated the garage can be no closer than 50' to the rear of the dwelling. Mr. Gertner asked if at 22' from each side, if that is enough room for the downspout. Mr. Hill confirmed that was correct. .

Opened to the public; seeing no one online, public portion closed.

Mr. Costanzo motioned to approve with the stipulation of the height, gravel, distance from dwelling, gas and electric, and the garage being for personal use and not commercial use, and the conditions sited for the record

Motion to approve by COSTANZO/ McIlhinney. Yes: McIlhinney, Najarian, Hurley, Borrelli, Costanzo, Book.

Motion to adjourn at 9:27 p.m. by MCILHINNEY/ Najarian. Yes: among all those present.

Respectfully submitted,

Danielle Sinowitz,
Zoning Board Recording Secretary