

Trianovich, Amanda

From: Zoning Board of Appeals
Subject: FW: 233 Hillspoint Rd. Sidewalk Variance Applications

From: don bergmann <donbergmann@sbcglobal.net>
Sent: Tuesday, September 1, 2020 10:01 AM
To: Zoning Board of Appeals <ZBA@westportct.gov>
Cc: Tyminski, Cindy <ctyminski@westportct.gov>
Subject: Fw: 233 Hillspoint Rd. Sidewalk Variance Applications

CAUTION: This email originated from outside of the Town of Westport's email system. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To ZBA,

My apologies for this late e mail. I only just realized the Applicant is apparently intending now to add fencing, including one eight feet tall.

Below is a December 2019 exchange of e mails between Peter Niesenson, the lead person with Pen Construction working for the Applicant, and me. This exchange sets forth concerns I had and, at least at that time, addressed my concern as to eight foot barriers. Once again, quite sadly, the ZBA, I, the neighbors, the Town confront what I would choose to characterize as the blatant bad faith of the Applicant and his people during this application. Peter states that the wall will not have a fence on top, i.e. it will not exceed its present, about three to four foot height. Now we have learned that an eight foot fence is being contemplated. Peter's comments on the sidewalk are also noteworthy.

What can I say, turn down this "new" application. I say "new" because that is what it is. If you want to let the Applicant call it a modification, then this modified application must also be turned down.

Don Bergmann 32 Sherwood Dr. Westport CT

----- Forwarded Message -----

From: don bergmann <donbergmann@sbcglobal.net>
To: Peter Nisenson <peter@penbuildingcompany.com>
Cc: Mary Young <maryyoung@westportct.gov>; Peter Ratkiewich <pratkiewich@westportct.gov>; Planning and Zoning <pandz@westportct.gov>; Cohen Gibby <gibby@wawcompany.com>; Patti Cohen <patti@wawcompany.com>; Chris Tait <ctfldcups@optonline.net>
Sent: Monday, December 23, 2019, 07:23:49 PM EST
Subject: Re: 233 Hillspoint Rd. Sidewalk

Peter,
Thanks for the quick response, especially at this time of year.

I am delighted that the three foot high wall will not have a fence on top. A worker told me that they would be putting a three foot, wooden fence on top. Hence, my being upset. I will tell my concerned neighbors. As to the future town sidewalk, that is under Peter's jurisdiction and timing, though Peter may weigh in on your observation that your "private" sidewalk will become obsolete. Good of you to note that the driveway will be pavers. That is consistent with the nature of the house.

I continue to request that Mary still get back to me since my points tied into some underlying philosophy and enforcement respecting variances and changes made to plans submitted to obtain a variance.

Don

On Monday, December 23, 2019, 05:39:55 PM EST, Peter Nisenson <peter@penbuildingcompany.com> wrote:

Hi Don,

Thanks for your note. The asphalt walkway, in the same location as the existing, was installed for the winter to create a stabilized, safe walkway for pedestrians that can be properly cleared of snow and ice. The permanent solution, whatever that may be, will be completed in conjunction with our paver driveway in the early spring.

Please note, as I'm sure you are already aware, the Public Works Dept has a plan for a public sidewalk that will be installed on town property at some point in the future rendering our "private" sidewalk obsolete.

The low, freestanding, landscape wall in the front will not have a fence on top. The workers might be speaking from their imagination. I'm happy to discuss any questions you may have regarding the building or landscape design.

Thanks,
Peter

Peter Nisenson
PEN Building Company
Sent from my iPhone

On Dec 23, 2019, at 5:16 PM, don bergmann <donlbergmann@sbcglobal.net> wrote:

Peter,

I see that you have a sidewalk installed, five feet wide I believe at 233 Hillspoint Rd. I am both disappointed and troubled by what is occurring. We had communicated by e mail on the topic in September.

1. Material - You went with asphalt, presumable the least expensive and certainly not in keeping with the kind of house being constructed. I know you e mailed me the bricks were not salvageable. However, bricks could have been purchased. I note that bricks do remain on a portion of the sidewalk. I presume that portion is not your property.
2. Location - It is most unfortunate you chose to have the sidewalk abut the road. The sidewalk along the Town park area is set back from the road. That is far more attractive. It would also have been in keeping with the quality of the house being constructed for which a very high price will be sought.
3. Wall/Fence - I am told by the workers that a fence, made of cedar, is planned to go on top of the wall that is being build. The wall will be three feet tall. I ask on behalf of all Westporters who walk along that beautiful area of Town that the fence you will install not exceed two feet in height. While I see no reason for even having a fence on top of the wall, a fence and wall combination that exceeds five feet in height will be almost an insult to all pedestrians. If the wall and fence are six feet high, most people will have their view of the water from that portion of the sidewalk completely blocked. The new house of course blocks much more of the water view than did the restaurant, but I am unable to impact on that loss. A six foot high wall/fence is not needed in any manner for the privacy of those who will purchase and live in the house. A six foot height will simply say to the public, "we (the new owners) have our views of the water, but

you, the public will have lost some of yours." Please, please reconsider any wall/fence higher than five feet. Probably you should just go with the three foot wall.

4. Sides of Fence - If you do construct a wooden, cedar fence I ask that the "good side" face outward, i.e. front the sidewalk. Most people who think about the point always have the good side out. Those who intentionally have the good side facing the privately owned house simply evidence public disdain.

I have addressed this e mail to our P&Z Director, Mary Young, and to our Public Works Director, Peter Ratkiewich. I copied the P & Z department since that is the manner to inform the ZBA. I assume you have addressed what you have already done and what you will do with both departments. I raise a couple of points for each of Mary and Peter and possibly Jim Ezzes, Chair of the ZBA.

1. Is what you are doing and plan to do completely consistent with your variance and the dictates of the Public Works Dept.? My belief is that the ZBA variance was somewhat general as to the details of the sidewalk, location, width, materials etc.. However, to me, if general, that provided the opportunity for Mary Young to insist on the most aesthetically appealing sidewalk for the site. Accordingly, I ask Mary to get back to me in a day or two, or immediately after Christmas as to my point and suggestion. A variance was granted for this project and that variance addressed a sidewalk. I want to make sure that the Town did not miss an opportunity to improve upon what you have done.

2. I ask the same question of Peter Ratkiewich, namely did you insist upon getting the most appealing outcome or did you approve what is being done without consideration to imposing a more appealing standard?

3. For Mary and Peter, I ask if a wall and fence were set forth in the building, property and landscape design that was submitted to the ZBA and which therefore becomes the basis for what can be done. In essence, is the property owner entitled to build a wall and a fence or should the property owner have gone back to the ZBA to gain approval or rejection of the change to the materials submitted.

Mary and Peter please get back to me on my questions, with whatever comments you believe appropriate. My one huge concern is a wall/fence that is higher than five feet. However, I am also concerned with full compliance with our regulations and the ZBA approval and want to do my best to assure we use the power of our Town government to make the site, including the views, as appealing to the public as possible. My guess is that Gibby and Patty may not be too pleased with my strong words, they both want an outcome that benefits the public as much as is reasonable.

Don Bergmann 32 Sherwood Dr. Westport