

MINUTES OF THE VILLAGE OF ATLANTIC BEACH  
BOARD OF ZONING APPEALS MEETING  
65 THE PLAZA, ATLANTIC BEACH, NY 11509

FEBRUARY 28, 2019

CALL TO ORDER

At 8:00 PM Chairman Anthony Siniscalchi called the meeting to order.

ROLL CALL

Present were: Chairman Anthony Siniscalchi  
Commissioner Carl Baessler  
Commissioner Steven Watkins  
Commissioner Steven Samuels

Village Attorney Charles S. Kovit  
Building Inspector Steven Cherson  
Village Clerk Emily Siniscalchi  
Court Reporter Linda Caffera

Absent: Commissioner George Cornish  
Commissioner Allan Jacobs

SWORN IN CHAIRMAN SINISCALCHI AND ALTERNATE COMMISSIONER STEVEN SAMUELS

At the December 10, 2018 meeting of the Board of Trustees there was unanimous approval that George Cornish was reappointed Commissioner to a five year term- January 1, 2019 to December 31, 2023 – he was not present and will be sworn in at the next BZA meeting.

At the December 10, 2018 meeting of the Board of Trustees there was unanimous approval that:

Commissioner Anthony Siniscalchi was reappointed Chairman for one year term – January 1, 2019 – December 31, 2019.

Steven Samuels was reappointed Alternate Commissioner for one year term January 1, 2019 – December 31, 2019.

The above were sworn in by Village Attorney Charles S. Kovit at this meeting.

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Village Clerk Emily Siniscalchi read the procedure that we will be following for this meeting.

Village Clerk Emily Siniscalchi said anyone that wishes to speak tonight must sign in.

Village Clerk Emily Siniscalchi said the approval for the following would take place at the end of this meeting.

- Approval of Minutes

- Approval of Findings of Facts

Chairman Siniscalchi asked Mr. Cherson to state the relief the applicants are seeking.

Case # 18354 Leonard & Lauren Troyetsky, 85 Nassau Avenue  
Construct a 15' x 26' vinyl in-ground swimming pool  
within the side yard and fence enclosure higher than permitted

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Also known as Section 58, Block 47, Lots 10-13

Request for variance from the following section of the Zoning Code of the Village of Atlantic Beach, NY.

Article V "C" Residence District  
§ 250-41 Fences.

A fence, not exceeding six feet in height, shall be permitted on the rear lot line and those linear portions of the side lot lines enclosing a rear yard and side yard; provided, however, that the six-foot fencing and its relationship to the street fronting upon the premises shall not exceed a greater distance frontward to the street than the front building line of adjacent dwellings on either side. For purposes of interpretation, a front building line shall refer only to the principal structure and shall not include patios, porches or other extensions thereto. Fencing for all other lot lines shall not exceed five feet in height except when permitted as a special exception by the Board of Zoning Appeals. In every case, the finished or "good" side of the fence shall face outward facing a legal street.

-- Proposed fence height on side and front property lines 6 feet in height

Article XI  
§250-84 - Swimming Pools  
Conditions for installation and maintenance

A (1) No outdoor swimming pool shall be installed or maintained unless: Such pool is installed wholly in the rear yard of the premises.

-- Proposed pool to be located entirely in the side yard

Chairman Siniscalchi asked if there was anyone to speak on this case.

Sworn in by Village Attorney Kovit was Andrew Braum, 1924 Bellmore Avenue, Bellmore, NY - Engineer.

Ms. Braum submitted the following exhibits into evidence:

- Applicant Exhibit 1:  
letter from neighbor at 90 Nassau Avenue-Michele Masucci  
stating she is in support of the application and have no objections
- Applicant Exhibit 2:  
letter from neighbor at 85 Nassau Avenue - Mark Ramer  
stating she is in support of the application and have no objections
- Applicant Exhibit 3:  
Findings of Facts - Case # 15269 - 90 Nassau Avenue - swimming pool
- Applicant Exhibit 4:  
Findings of Facts - Case # 17304 - 89 Nassau Avenue - swimming pool
- Applicant Exhibit 5:  
Findings of Facts - Case # 13233 - 82 Oneida Avenue -swimming pool

He presented the case - swimming pool will be open only three months out of the year and the benefit outweighs the negative. Commissioner Watkins asked how many feet will the swimming pool be away from the house, IF the swimming pool is moved in line with the rear of the home it would be 8'. Homeowners do not want swimming pool right in the middle -when they walk out door swimming pool will be right there.

Case # 18354 Leonard & Lauren Troyetsky, 85 Nassau Avenue (Continued)  
Construct a 15' x 26' vinyl in-ground swimming pool  
within the side yard and fence enclosure higher than permitted

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Chairman Siniscalchi asked if there was anyone to speak in favor.

Sworn in was Lenny Troyetsky, 85 Nassau Avenue - owner and applicant.  
He said the reason why they want to put the swimming pool in the front is because the trees in the back give a lot of privacy and he hates to cut them down.

Chairman Siniscalchi asked if there was anyone else to speak in favor - there was no one.

Chairman Siniscalchi asked if there was anyone to speak against - there was no one.

Attorney Kovit said the application is for a 15' x 26' swimming pool and they want a 15' x' 28' swimming pool and closer to the rear of the house.

Attorney Kovit said they would have to submit revised plans

Mr. Troyetsky came back to the podium and said the swimming pool will line up with the balcony and will not go forward to front of the house.

At 8:25 PM we went off the record and Building Inspector Cherson met with Mr. Braum and Mr. Troyetsky.

At 8:35 PM we went back on record.

New proposal - they will submit new plans; move swimming pool to the rear yard 4' off the rear and side property line and fencing to be 5' in height.

Commissioner Samuels moved the adoption of the following:

RESOLVED, to grant Case # 18354 per revised plans  
subject to the review of the Building Plans Examiner -  
swimming pool 15' x 28'; 4' off rear and 4' off side yard.

The foregoing was seconded by Commissioner Baessler and passed by the following vote:

Ayes: Chairman Anthony Siniscalchi  
Commissioner Carl Baessler  
Commissioner Steven Watkins  
Commissioner Steven Samuels

Noes: None

Case # 19355 Howard & Elisa Mermelstein, 57 Ithaca Avenue  
Enlarge second floor over existing driveway, elevated decks,  
rooftop bulkhead and interior alterations

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Also known as Section 58, Block 52 Lots 24-28

Request for variance from the following section of the Zoning Code of the Village of Atlantic Beach, NY.

Case # 19355      Howard & Elisa Mermelstein, 57 Ithaca Avenue  
Enlarge second floor over existing driveway, elevated decks,  
rooftop bulkhead and interior alterations      (Continued)

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Article V "C" Residence District  
§250-31 Lot coverage

The lot coverage shall not exceed 30% of the lot area  
-- Proposed lot coverage 31.89%

§250-33.1 Grading

For all lots upon which any proposed grade change is in excess of two feet, where the total area of the lot containing the proposed work is in excess of 100 square feet and where the grade is permitted to be increased up to two feet, the grade shall not be permitted to be increased to within 10 feet of the front, side and rear property lines. No person firm, or corporation or entity shall alter the grade of any parcel of land without first having obtained the approval of the Board of Zoning Appeals.

-- Proposed average grade change 2.08 - 2.53 feet south side of property

§ 250-35 Height

In case of a single-family dwelling, no building shall be greater in height than 2 1/2 stories with a maximum height of 38 feet to peak.

Proposed height 28.4 feet

§250-37 Front Yard

A. The required front yard depth shall be the same as the average front yard depth of the existing buildings within 200 feet on each side of the lot and within the same block in the same use district or,

-- Average front yard setback 13.8 feet

-- Proposed front yard setback for second floor 11.6 feet

§ 250-39 Rear Yards

There shall be a rear yard, the depth of which shall be at least 25 feet, provided that, if at the time this chapter becomes effective any lot is held in single and separate ownership with a depth of less than 100 feet, the required depth of the rear yard may be diminished by three inches for each foot of difference between 100 feet and the depth of the plot, but in no case shall the depth of the rear yard be less than 15 feet.

-- Proposed rear yard 2.8 feet

Article XV . General Provisions

§250-108 Prohibited and restricted uses

J. Buildings within the Village of Atlantic Beach shall be constructed with a peaked or gable roof only.

N. In any use district, no permanent structures shall be installed on a roof without a special exemption from the Board of Zoning Appeals, excluding chimneys and photovoltaic panels.

-- Proposed rooftop kitchen and mechanical equipment

Chairman Siniscalchi asked if there was anyone to speak on this case.

Sworn in by Village Attorney Kovit was Charles Schwartzapfel, 889 West Beech Street, Long Beach, NY.

Mr. Schwartzapfel presented the case for the applicants.

He said the house is being lifted for code compliance per FEMA - has to be lifted about 28'.

Case # 19355      Howard & Elisa Mermelstein, 57 Ithaca Avenue  
                         Enlarge second floor over existing driveway, elevated decks,  
                         rooftop bulkhead and interior alterations      (Continued)

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Chairman Siniscalchi asked if there was anyone else to speak on this case.

Sworn in by Village Attorney Kovit was Howard Mermelstein, Flushing, NY.  
He mentioned they also closed today on 56 Hamilton Avenue.

Commissioner Baessler said the property just north of this property is Mr. Donnelly  
and asked Mr. Schwartzapfel if he spoke to him.

Chairman Siniscalchi asked if there was anyone else to speak in favor - there was no  
one.

Attorney Kovit read a letter received as follow:

- Opposition Exhibit 1: letter dated February 2, 2019 from Stanley L. Levin,  
65 Ithaca Avenue - he wrote a letter on behalf of his mother

Chairman Siniscalchi asked if there was anyone to speak against.

Sworn in by Village Attorney Kovit was Louis Marett, 69 Hamilton Avenue.

Mr. Marett said he lives across the street and is speaking on behalf of Mr. Donnelly.  
He said this would be completely on Mr. Donnelly's backyard and not in character  
with the village.

Next to be sworn in by Village Attorney Kovit was John Donnelly, 64 Hamilton  
Avenue. He said he abuts the property by 20' and his main concern is losing the  
rear yard setback and bringing the house right to top of his.

Chairman Siniscalchi asked if there was anyone else against - there was no one.

Mr. Schwatzapfel came back to the podium.

At 9:10 PM we went off the record and the Architect and his clients went to discuss  
the application.

At 9:20 PM we went back on record.

Mr. Schwatzapfel said they are requesting an adjournment until the March 21st  
meeting.

Chairman Siniscalchi moved the adoption of the following:

RESOLVED, to adjourn Case # 19355, Howard & Elissa Mermelstein,  
57 Ithaca Avenue to the March 21, 2019 meeting.

The foregoing was seconded by Commissioner Watkins and passed by the following  
vote:

Ayes:            Chairman Anthony Siniscalchi  
                     Commissioner Carl Baessler  
                     Commissioner Steven Watkins  
                     Commissioner Steven Samuels

Noes:            None

Mr. Cherson said the following cases are a continuation from prior public hearing.

**CONTINUATION**

Case # 18353      Mark & Kathleen Nord, 2094 Pacific Boulevard  
Construct a three story single family dwelling

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Also known as Section 58, Block 19, Lot 225

Request for variance from the following section of the Zoning Code of the Village of Atlantic Beach, NY.

Article IV "A" Residence District

§250-20 Height

A. In the case of a single-family dwelling, no building shall be greater in height than 2 1/2 stories, with a maximum height of 26 feet to peak

- New Proposed height north deck 24.6 feet and proposed south roof deck 29 feet
- Proposed height 32 feet top of bulkhead

B. Roof slopes less than four feet vertically for every 12 feet horizontally shall have a maximum height of 22 feet to peak, including parapet walls.

- New Proposed height north deck 24.6 feet and proposed south roof deck 26.6 feet
- Proposed height of north roof deck 27 feet and proposed south roof deck 29 feet

§250-21 Lot coverage

The lot coverage shall not exceed 30% of the lot area

- New proposed 44.52%
- Proposed lot coverage 47.39%

§250-22 Front yards

B. In case of a corner lot, a front yard shall be required on each street, and, notwithstanding the foregoing, each front yard shall be not less than 25 feet, provided that, if at the effective date of this chapter any corner lot is held in single and separate ownership having a width of less than 55 feet, the depth of the front yard on one side of the lot may be decreased when authorized as a special exception by the Board of Zoning Appeals.

- Proposed front yard setback Coronado Street 10.3 feet first floor and 7.3 feet second floor deck.
- Proposed front yard setback Pacific Boulevard 13.5 feet
- Second floor front deck with staircase eliminated

§250-24 Rear yards

There shall be a rear yard, the depth of which shall be at least 25 feet, provided that, if at the time this chapter becomes effective any lot is held in single and separate ownership with a depth of less than 100 feet, the required depth of the rear yard may be diminished by three inches for each foot of difference between 100 feet and the depth of the plot, but in no case shall the depth of the rear yard be less than 15 feet.

Proposed rear yard 12 feet

Proposed rear yard for A/C deck 8 feet

Case # 18353      Mark & Kathleen Nord, 2094 Pacific Boulevard  
Construct a three story single family dwelling (Continued)

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Article XV. General Provisions

§250-108 Prohibited and restricted uses

J. Buildings within the Village of Atlantic Beach shall be constructed with a peaked or gable roof only

Mr. Cherson said they received revised drawings.

Chairman Siniscalchi asked if there was anyone to speak for.

Sworn in by Village Attorney Kovit was Joseph Gallinaro, Architect, 185 Lagoon Drive East, Lido Beach, NY. - he is representing the Nords

He said the following adjustments were made to the application:

- 3 story FEMA compliant
- 3 bedrooms; 3 baths
- 1300 square feet
- Coastal A flood zone

In 2013 the owner had plans and after the Board of Zoning Appeals approved the house burned down and in 2018 they received insurance money.

Mr. Gallinaro submitted the following into evidence:

Applicant Exhibit 1: Findings of Facts - Case # 18327 & 18328  
- 2115 & 2121 Pacific Boulevard

Chairman Siniscalchi asked if there was anyone to speak for - there was no one

Chairman Siniscalchi asked if there was anyone to speak against.

Sworn in by Village Attorney Kovit was John Faulhaber, 2080 Pacific Boulevard

He said he is on the opposite corner of the subject property and at the first hearing he submitted an objection with 24 signatures - house does not fit the character of the community.

Chairman Siniscalchi asked if there was anyone else to speak against.

Sworn in by Village Attorney Kovit was Moshe Ben-Benjamin, 2090 Pacific Boulevard  
- he is next to the property.

He submitted into evidence the following exhibit:

Opposition Exhibit 1: January 8, 2019 letter to the Zoning Board

This is very close to his house - front yard now on Coronado Street and back yard by his house. The property with a deck looks directly to his yard and privacy - size not acceptable.

Chairman Siniscalchi asked if there was anyone else to speak against.

Sworn in by Village Attorney Kovit was Paul Mascioli, 2100 Pacific Boulevard - his property is to the west. Coverage on lot enormous - entire roof deck, look into their yard, oppose to height without peak roof.

Mr. Ben-Benjamin came back to the podium - previous plans they were not aware of it - north side they want a flat roof.

Letter received on January 2, 2019 from Barbara Ginsburg & Jerry Ellenbogen, 63 Coronado Street dated December 14, 2018 urging the Board to deny their request.  
(copy attached)

Case # 18353      Mark & Kathleen Nord, 2094 Pacific Boulevard  
Construct a three story single family dwelling (Continued)

Chairman Siniscalchi asked if there was anyone else to speak against - there was no one.

Mr. Gallinaro came back to the podium and said the lot coverage is 3064 SF and the house is 1200 SF.

Commissioner Baessler moved the adoption of the following:

RESOLVED, to deny Case # 18353 - Mark & Kathleen Nord, 2094 Pacific Boulevard.

The foregoing was seconded by Chairman Siniscalchi and passed by the following vote:

Ayes:            Chairman Anthony Siniscalchi  
                     Commissioner Carl Baessler  
                     Commissioner Steven Watkins  
                     Commissioner Steven Samuels

Noes:            None

Mr. Cherson said this case is a continuation from prior public hearing.

Case # 18349 - Phoenix 83 Holdings LLC, 83 Queens Avenue  
Construct a 14' x 28' vinyl in-ground swimming pool in the side yard  
and a fence enclosure higher than permitted

Also known as Section 58, Blocks 44, Lots 10-13

Request for variance from the following section of the Zoning Code of the Village of Atlantic Beach, NY.

Article V "C" Residence District

§250-41 Fences. A fence, not exceeding six feet in height, shall be permitted on the rear lot line and those linear portions of the side lot lines enclosing a rear yard and side yard; provided, however, that the six-foot fencing and its relationship to the street fronting upon the premises shall not exceed a greater distance frontward to the street than the front building line of adjacent dwellings on either side. For purposes of interpretation, a front building line shall refer only to the principal structure and shall not include patios, porches or other extensions thereto. Fencing for all other lot lines shall not exceed five feet in height except when permitted as a special exception by the Board of Zoning Appeals. In every case, the finished or "good" side of the fence shall face outward facing a legal street.

Proposed fence height on side and front property lines 6 feet in height

Article XI Swimming Pools §250-84. Conditions for installation and maintenance.

A(1) No outdoor swimming pool shall be installed or maintained unless: such pool is installed wholly in the rear yard of the premises.

Proposed pool to be located in the side yard

Chairman Siniscalchi asked if there was anyone to speak on this case

Case # 18349 - Phoenix 83 Holdings LLC, 83 Queens Avenue  
Construct a 14' x 28' vinyl in-ground swimming pool in the side yard  
and a fence enclosure higher than permitted (Continued)

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Sworn in was Andrew Braum, 1924 Bellmore Avenue, Bellmore, NY - Engineer. He is representing the applicant - Phoenix Holdings LLC and they requested an adjournment to this meeting. He said the swimming pool is completely in the side yard - location not front of house.

Mr. Braum submitted into evidence the following exhibits.

- Applicant Exhibit 1: Findings of Fact - Case # 15629 - 90 Nassau Avenue - Masucci
- Applicant Exhibit 2: Findings of Fact - Case # 17304 - 80 Nassau Avenue - Cohen
- Applicant Exhibit 3: Findings of Fact - Case # 13233 - 82 Oneida Avenue - Port
- Applicant Exhibit 4: Letter dated 1/14/19 from 82 Queens Avenue - Ottensoser stating they are in support and have no objections
- Applicant Exhibit 5: Letter dated 1/14/19 from 99 Queens Avenue - Keller stating they are in support and have no objections
- Applicant Exhibit 6: Letter dated 1/14/19 from 100 Putnam Boulevard - Cooper stating they are in support and have no objections

Chairman Siniscalchi asked if there was anyone to speak for.

Sworn in by Village Attorney Kovit was Jerry Kestenbaum - he said he owns the property and is part of the LLC - property will be enjoyed b his son and daughter-in-law. Mr. Kestenbaum explained the proposal.

Chairman Siniscalchi asked if there was anyone else to speak for - there was no one. Chairman Siniscalchi asked if there was anyone to speak against - there was no one.

Chairman Siniscalchi moved the adoption of the following:

RESOLVED, to reserve decision to the March 21, 2019 meeting - Case # 18349.

The foregoing was seconded by Commissioner Baessler and passed by the following vote:

Ayes:	Chairman Anthony Siniscalchi Commissioner Carl Baessler Commissioner Steven Watkins Commissioner Steven Samuels
Noes:	None

#### DECISION

Case # 18346      Michael Kadoe, 85 Erie Avenue  
Construct a 8' 11 7/8" x 22' 8 1/2" rooftop bulkhead

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Revised to: 4'-6 1/2" x 19' 5 1/2" rooftop deck  
Also known as Section 58, Block 56, Lot 126

Request for variance from the following section of the Zoning Code of the Village of Atlantic Beach, NY.

Article V, Residence C District  
§250-35. Height

In the case of a single-family dwelling, no building shall be greater in height than 2 1/2 stories with a maximum height of 28 feet to peak.

Proposed height 31.6 feet

Case # 18346 Michael Kadoe, 85 Erie Avenue (Continued)  
Construct a 8' 11 7/8" x 22' 8 1/2" rooftop bulkhead

Commissioner Baessler moved the adoption of the following:

RESOLVED, to deny Case # 18346 - Kadoe, 85 Erie Avenue.

The foregoing was seconded by Commissioner Samuels and passed by the following vote:

Ayes: Chairman Anthony Siniscalchi  
Commissioner Carl Baessler  
Commissioner Steven Watkins  
Commissioner Steven Samuels

Noes: None

APPROVAL OF FINDINGS OF FACT -

Each member of the Board was given a copy of the Findings of Fact and given an opportunity to review and correct.

Commissioner Baessler moved the adoption of the following:

- Case # 18350 - Jeffrey & Audrey Mordos, 82 Hamilton Avenue  
Construct a 20' x 40' in-ground swimming pool in the side yard
- Case # 18351 - Edward S. Karan & Dana Federbush, 1697 Bay Boulevard  
Maintain an existing 4' x 8' Portico and construct a 4'x8' overhang
- Case # 18352 -Atlantic Beach Holdings, 75 Putnam Boulevard  
Construct a basketball court in the front yard setback

The foregoing was seconded by Commissioner Watkins and moved by the following vote:

Ayes: Chairman Anthony Siniscalchi  
Commissioner Carl Baessler  
Commissioner Steven Watkins  
Commissioner Steven Samuels

Noes: None

APPROVAL OF MINUTES

Each member of the Board was given a copy of the Minutes and given an opportunity to review and correct.

Commissioner Baessler made a motion to accept the minutes of November 15, 2018 as written by the Village Clerk. (last meeting)

The foregoing was seconded by Commissioner Samuels and passed by the following vote:

Ayes: Chairman Anthony Siniscalchi  
Commissioner Carl Baessler  
Commissioner Steven Watkins  
Commissioner Steven Samuels

Noes: None

ADJOURNMENT

At 10:45 PM Chairman Siniscalchi made a motion to adjourn.

The foregoing was seconded by Commissioner Baessler and passed by the following vote:

Ayes:           Chairman Anthony Siniscalchi  
                  Commissioner Cal Baessler  
                  Commissioner Steven Watkins  
                  Commissioner Steven Samuels

Noes:           None

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Emily Siniscalchi, Village Clerk