

ZONING COMMISSION
SPECIAL MEETING August 22, 2012

Joe Savarese opened the Regular Meeting at 7:07 P.M. with the following in attendance:

MEMBERS:

Joe Savarese, Chair
Diana Raczkowski, Vice Chair
Neil Mascola
Stanley Jaroneczyk
Richard Cool
Sally Brouillet, Alternate
William Stopper, Alternate
April Slauson, Alternate, Absent

OTHERS:

Public: 1
Steve Macary, ZEO
Sue Goggin
Attorney Stephen Savarese

1. At 6:06 Joe Savarese opened the meeting with the Pledge of Allegiance and then took attendance.
2. No Executive Session.
3. **OLD BUSINESS:**

- A. Commission Discussion and review of January 30 Decision regarding agreement of property owners to correct conditions of zoning violation and further Decision as conditions warrant – Bronko, Finlay Properties.

Chair Joe Savarese read an inspection report from Borough Engineer, Wayne Zirolli, dated August 17, 2012. He then read a letter from the Bronko's dated July 16, 2012 stating the problems with Mr. Finlay's plan. Joe addressed each of the items in Mr. Bronko's letter. A discussion ensued regarding what has been done on both properties and what still needs to be done. The commission and the Bronko's and the Finlay's were in agreement with the corrected and specific plan. There was further discussion regarding putting down mulch if needed to stabilize the berm.

VOTED: 6-1-0 on a motion by Diana Raczkowski and seconded by Stanley Jaroneczyk that based on discussion by the Zoning Commission and mutual agreement of the parties involved in this complaint, it is agreed that Mr. Finlay will construct a two foot stone wall on his property behind the monuments or markers that are on the Bronko's property. The stone wall shall be installed on the northwest border of the Bronko/Finlay property between the two points that run in a northwesterly direction indicated by stars on the plan where there is less than an existing 2-1 slope so that the finished slope on that side is not less than 2-1 at any point. Mulch or seed is to be installed on exposed southerly side of the berm on the Finlay's property if the Borough Engineer feels it is necessary to stabilize it. The Bronko's must seed and stabilize their side of the property.

- B. Commission Discussion/Decision for proposed plan submitted by Mr. Finlay for improvements on common boundary – Bronko, Finlay Properties.

4. **NEW BUSINESS**

- A. Commission Discussion/Decision regarding ZEO letter to Michael Bronko dated December 29, 2011, ordering removal of not permitted Structure (per Section 23.3).

Chair Joe Savarese explained that the way he understood was that if an item isn't in the regulations, then it's not permitted. He said there has been a history of tree fort complaints which have been responded to by the ZEO with action. Steve Macary, ZEO, listed and described the properties he has had taken down. Steve said tree forts are not in the zoning regulations. Joe read Section 23.3, prohibited use regulation. There was a discussion on whether or not a tree fort can be applied to the regulation including recreation rooms. Steve said there have only been 5 or 6 in town and 4 of them were made to take them down. Bill Stopper asked Steve why he had the other tree forts taken down. Steve said because they are not in the regulations, therefore they are not allowed. Attorney Savarese said he thinks that the Zoning Commission should put it to a vote as to whether or not the ZEO's interpretation was consistent. The commission was divided on whether or not it should be allowed under Section 25.6 as a recreation room. There was a discussion on adding regulations to cover tree forts. Diana Raczowski asked the Bronko's if they received any Land Use advice. Steve said they never called him, but they did call the building inspector. Steve said the building inspector told them that there were no building codes (relating to tree forts). Mr. Bronko told him that statement was not true. Mrs. Bronko read a letter in which she stated that in 2008 the building inspector told them that any structure with walls less than 6 feet and has no roof doesn't need a permit. She said that Mr. Bronko spoke with Steve Macary, ZEO, who said that zoning does not regulate tree houses/forts, therefore they did not need a permit. She said they built the tree house in 2011. Mrs. Bronko said it is located between three trees approximately 7 feet high, with 2 ½ foot walls and no roof, because they were told not to have a roof. It is located more than 15' from the property line because they were told (to put it) 15' beyond the property line, so they followed that. She read the timeline from when complaint first was made to present. She then read regulations from some of the surrounding towns regarding tree forts. Steve and Mr. Bronko disagreed over having a conversation regarding tree forts. Steve left the meeting. There was a discussion on interpreting the regulations. Attorney Savarese said he felt it was important for the commission to state clearly, even if there's a minority vote, and have a definitive vote. He said that vote will be given to the ZBA and the ZBA will do its duty, which is to interpret the regulations. Stanley suggested that they don't make them take it down until a decision is made. Attorney Savarese said if it's not in the regs, it's not allowed. Mr. Bronko said he disagreed with Attorney Savarese that it is not in the regs. He said he would tend to argue the point against what Attorney Savarese said about it not being in the regs. He said he argues that it is in the regs, because they are other similar purposes in conjunction with recreational rooms. He said that's what the tree fort is. Sally said the commission needs to determine what other similar purposes are. Joe Savarese said they need to be consistent in the interpretation

of their regulations. He said they need to create some regulations to cover these types of things. Attorney Savarese said they could vote to put a moratorium on enforcement and agree to put it on the agenda for the next meeting to add this to the regulations.

VOTED: 2-3-0 on a motion by Diana Raczkowski and seconded by Stanley Jaroneczyk to put a moratorium on this for the time being, discuss it at the next zoning meeting, and come up with a regulation that can be voted on, have a Public Hearing and vote as to whether or not the commission wants to have tree houses.

<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>
Diana Raczkowski	Neil Mascola	
Stanley Jaroneczyk	Rick Cool	
	Joe Savarese	

VOTED: 3-2-0 on a motion by Rick Cool and seconded by Neil Mascola to interpret Section 25.6 as it reads as with respect to recreation rooms and other similar purposes as not to include tree forts.

<u>FOR</u>	<u>AGAINST</u>	<u>ABSTAIN</u>
Joe Savarese	Diana Raczkowski	
Neil Mascola	Stanley Jaroneczyk	
Rick Cool		

Joe said the Bronko's have the option to go to the ZBA. Mr. Bronko asked if they should expect a letter from the ZEO. Attorney Savarese said it will be the Deputy ZEO, Wayne Zirolli, who will be sending them a letter. Attorney Savarese will help him draft the letter. There was no further discussion.

5. ADJOURNMENT

VOTED: Unanimously on a motion by Diana Raczkowski and seconded by Stanley Jaroneczyk to adjourn the meeting at 9:09 P.M.

RESPECTFULLY SUBMITTED:

Neil Mascola, Secretary/sg