

**BOARD OF ZONING APPEALS
MEETING MINUTES
Mayfield Village
Dec 17, 2024**

The Board of Zoning Appeals met in regular meeting session on Tues, Dec 17, 2024 at 6:00 p.m. at the Mayfield Village Civic Center, Main Conference Room. Chairman Pro Tem Michalko presided.

ROLL CALL

Present:

| | | | |
|-------------------------|------------------|--------------------|-------------------|
| Mr. John Michalko | Chairman Pro Tem | Ms. Diane Calta | Law Director |
| Mr. Jim Kless | P & Z Rep to BZA | Mr. Daniel Russell | Bldg Commissioner |
| Ms. Alexandra Jeanblanc | | Ms. Deborah Garbo | Secretary |
| Mr. Bob Andrzejczyk | Alternate | | |
| Mr. Bob Haycox | Alternate | | |

Absent:

Mr. Stivo DiFranco Chairman
Mr. Joseph Prcela

CONSIDERATION OF MEETING MINUTES: **Aug 13, 2024**

Ms. Jeanblanc, seconded by Mr. Kless made a motion to approve the minutes of Aug 13, 2024 as written.

ROLL CALL

Ayes: Mr. Michalko, Mr. Kless, Ms. Jeanblanc, Mr. Andrzejczyk, Mr. Haycox

Nays: None

Motion Carried

Minutes Approved

CONSIDERATION OF CASE NUMBER 2024-05

Applicant: Dan Melaragno
6475 Foxboro Dr.
PP # 831-36-087

1. A request for a 24' rear property line setback variance from Section 1181.07(c)(1) to allow for a deck and gazebo.

Abutting Property Owners:

Foxboro Dr: 6483, 6491, 6467, 6459, 6451, 6499

Chase Dr: 6474, 6482, 6490, 6466, 6458, 6450

OPEN PORTION

Chairman Pro Tem Michalko called the meeting to order. Tonight we have one variance request, Case # 2024-05 for Dan Melaragno at 6475 Foxboro Dr., PPN 831-36-087. This is a request for a 24' rear property line setback variance from Section 1181.07(c)(1) to allow for a deck and gazebo.

OATH

Chairman Pro Tem Michalko stated, because we are a Quasi-Judicial Body, anyone wishing to speak must be sworn in. Chairman Pro Tem Michalko administered the Oath to Erin and Dan Melaragno, Robert Lewis and Linda Castrataro.

Chairman Pro Tem Michalko invited the applicant to present his case.

Presentation *by* Michael Lograsso, Esq

Michael Lograsso introduced himself. Thank you, I represent the Melaragno's. I just got into this very recently representing Mr. Melaragno. I'm trying to learn the facts of the case and what happened here. I did have a chance to meet with Mr. Russell briefly at the property, I think we had a good visit at the site, we looked at what was done. I walked through with Mr. Russell to see what needed to be done additionally. First off, did my clients make some mistakes here? Absolutely. When Dan called me and gave me the facts of the case, I asked my client, how did you not pull the permit right away? There's no excuses for it. Does he and his wife apologize, absolutely they apologize.

Dan's in the business of managing properties, he has a crew that does work on inside of houses. They were available right away, they made the decision to do it, they got quickly involved with it and shame on him he didn't get the permit. He eventually did pull the permit for the pool. I think he needs to still get an electrical permit. He's done a lot, has he tried to make up for his mishap? Absolutely.

He installed the pool, then they built quite a substantial deck around the pool. When he originally looked at the drawing, he thought he had enough room. The problem he ran into is as he started to build the deck, he discovered his backyard property is really riddled with roots. It must have been trees that were cut down in the past that aren't there now. It became quite difficult for him to dig and set the posts without hitting roots everywhere. So he put additional posts to build this thing like a tank and I'll have him explain that. Everything was dug either to 42" at the lowest to maybe 50". In some other areas he put supports under the deck to support it on concrete pillars. Don't forget, his kids play on this deck, so safety obviously is a huge concern of his.

The back of the deck except for the part where the gazebo is goes back far enough, we measured it with Mr. Russell, so the variance back there is actually much smaller. It's this point on the gazebo which is up here on the corner, that little piece right here, this 12' section that angles out is the one that encroaches more than anything.

Mr. Russell corrected, that should be 16', not 20'. It's written correctly but it's on the drawing incorrectly. We measured it together and it's not 20' away, it's 16' from the property line. The most variance you're going to ask for is the 24' because it's 16'.

Michel Lograsso continued, since August he did fill out the affidavit that you sent him back in August which we went over that day that we met at the property. You discovered them in your file, so he complied there. Both the Melaragno's have tried to comply with everything. Again, knowing now, we would go back and obviously do things differently to get ahead of the curve not to have this kind of issue come up.

Michal Lograsso stated, the deck is attached to the other deck which is attached to the property. He needs to still get an electrical permit I believe. We're trying to find a new Architect to review the plans and sign off with a stamp so we could have it presented to the Board that it is a safe structure. At the end of this I'm going to ask for either a conditional variance or some extra time for continuous for us to accomplish that. He's been I believe cooperating completely with the Building Dept. There was a little mishap in talking to the Law Director that there was a 'stop work order' issued by the Building Commissioner. Apparently, the Melaragno's said that who brought it over to their house left it with their 13 year old Son. Their Son said hey Mom & Dad somebody came by and wanted to talk about the pool, they said they'll call you. It took several days before they found the notice sitting on their island in their kitchen. So, was work done after the 'stop work order' was issued? Yes. Was it done intentionally and against it? No. Once they discovered it, Mr. Melaragno realized the deck was incomplete and really not safe so he did finish off what little was left. He had some gates on order, so he wanted to make sure the gate was safe for not only his kids but anyone in the neighborhood who would come by.

They have four children, I've known the Melaragno's for many many years. I've known Mrs. Melaragno's parents for even longer. They're good people, they have four children, the neighborhood kids come over and swim in this pool. I don't think any of the neighbors except possibly one on the side has an issue with this, water does not flow to her property, Mr. Melaragno said it goes to the back. There's no runoff into anyone's property to cause any damage.

Michael Lograsso, in conclusion. So we're here really to ask this Board for time to get everything done that needs to be done to make the Building Commissioner happy and satisfied that he could sign off on it and make it safe. Obviously again, they have four children, safety's a huge, huge factor to them. Their kids are using this all the time, their cousins come over and use it. That's what we're looking for here. Again, we apologize for the mistakes. Mr. & Mrs. Melaragno are happy to answer any questions you may have, as I am. Neighbor Mr. Lewis is here, he lives two doors down, he has no problem with the pool or the deck. It's a big deck for sure, it's useful, it's not an eyesore, it's not an albatross in the neighborhood. You really don't see it from the street, maybe from behind you could see it. It's very attractive, well built. Mr. Melaragno's workers built it themselves. I've been on it, it's very sturdy. When you look underneath as the Building Commissioner did briefly, you could see that there's a lot of support in and around the deck. He'd like to make sure that it complies with the Village's code. We're open for any questions.

OPEN DISCUSSION

Ms. Jeanblanc asked, what's missing from the permit process?

Mr. Russell replied, I have to issue a deck permit once I get approved drawings and an electrical permit still has to be issued.

Ms. Calta asked, do they have a deck application?

Mr. Russell replied, yes they have an application.

Ms. Jeanblanc asked, are we allowed to grant this without that being permitted?

Ms. Calta replied, I guess the easiest way to say, it's out of order. We typically have someone come in that would look to see if they need a zoning permit. In this instance Dan would have told them that they needed a variance because of the encroachment on the back setback. After that was granted, then they would go through the building permits. So you'd have a pool permit, a deck permit and I think a gas and electric. So, we have the structure in place already, so we've got the pool, we've got the deck. The pool I believe was started then there was a 'stop work order'. The pool permit has been granted now, I think on Dec 2nd. The deck though has not been approved yet. I think Dan has a drawing but needs some more information on the person who stamped it to verify it. The problem that Dan's running into is he can't inspect the deck because it's already put together. As you can see, I think all of those squares are posts. I'm just a lawyer, but I think those are all posts. Each one of those posts as Mr. Lograsso mentioned needs to be constructed at least 42" down, below the frost level so it's all sturdy. But, in order to verify their depth, you would have to dig up every single post. I understand from everybody I've talked to, mostly Dan and Mr. Michalko also, it was explained to me that that can interrupt the integrity of the structure. What we've said is, if we could have a Design Professional review the structure, stamp it and say that it has been constructed according to (and there's other ways to do the verification), but a Design Professional could verify that those footers have been constructed correctly and it's all been constructed according to building code, given its size. We're kind of going backwards here, then Dan would be able to issue that permit. I don't believe we have the electrical permit yet.

Mr. Russell replied, the electrical permit has to come from the electrical contractor.

Ms. Calta asked, and the gas permit we do have but you were not able to do an inspection?

Mr. Russell replied, they never called for a post inspection.

Ms. Calta stated, since we know all of those things now, what we've said is can you put conditions on your variance. For a variance, you wouldn't be talking about any of these things normally, we would only be talking about the variance. We would be looking at the standards and the information that they provided and the questionnaire for area variance and you'd be deciding that. But, because we are where we are, my recommendation is that we tie it together. This way, everybody knows what needs to be done and everything gets done and the variance is conditioned

on those things happening, so we're not hunting you down and Dan doesn't have to go to court to have anything enforced. Essentially it would be conditions on the variance. Any variance granted would expire within six months from the date of issuance in the event the work has not commenced. If this stuff isn't provided within that time, the variance would not be valid. That's a really long answer to your short question, but I think you kind of get the lay of the land.

Ms. Calta said, one other thing I have to mention also. The new deck is attached to an existing deck. When you do that, essentially it becomes part of the structure. When you have that provision in our code apply, your setback is then a minimum of 40'. You can see in the one area, you're looking at an encroachment of about 10'. You have about 30' in that one area, but the other area is where it gets pinched and I think that's where the gazebo is. There's a gazebo on the deck?

Dan Melaragno replied, yes.

Ms. Jeanblanc asked, the one section is 16' and not 20'?

Ms. Calta replied, correct. It's a setback of 16' that encroaches 24'. If this had been a stand-alone structure, the setback, believe it or not would only be 10'. But, it's attached so you have to look at it from that standpoint. It's when you keep adding on to the structure is where you get into that setback.

Chairman Pro Tem Michalko said, I have a question. You had a 'stop work order' at one time for the pool?

Dan Melaragno replied, correct.

Chairman Pro Tem Michalko asked, wasn't that a red light that you had to check on some other things? You didn't ask for a variance until after it was built.

Dan Melaragno replied, right. I didn't know that I needed a variance. I didn't know that there was a 40' setback. I was telling Mr. Lograsso earlier, when it started getting dug up and we started hitting the roots, and the roots and the roots, it just kept forcing it to be pushed back, the pool. I went and looked up what the distance from the property line is supposed to be for the pool and your website it said 15'. I wasn't thinking that the pool was 15', I thought that meant any structure. And I didn't know if you tie into an existing structure, it counts as part of the house, I got screwed up. I made sure everything was at least 15' away when I was putting the pool in, so I thought I was good from that point. I guess I messed up on the decking. I still kept trying to maintain the 15' away from the property line when I was doing this. Had this gone where it was originally supposed to be, which is way up here, the deck would have ended in this area which would have given me more than enough space from the back property line.

Erin Melaragno stated, the 'stop work order' honestly we did not see that slip. I want to say it wasn't until Mr. Russell did call my husband that we were like oh my God, our son never showed us the little tag that said stop. At that point it wouldn't have been safe to leave open the way that it was. That's why he said we have to at least put this on and this on, otherwise it wouldn't be safe

and God forbid if someone got in our backyard or something happened, he was worried someone would get hurt.

Chairman Pro Tem Michalko asked, but was the deck permit ever pulled?

Dan Melaragno replied, once we got to talking, he sent me the stuff in Aug on the portal and I filled it out on your website, whatever, through my phone and I submitted everything on Aug 23rd.

Chairman Pro Tem Michalko asked, and the application for this meeting was sent on Dec 2nd?

Dan Melaragno replied, I didn't send anything for a variance until we all met together.

Ms. Jeanblanc asked, if they hadn't run into the issue with the roots, would they not need a variance?

Mr. Russell replied, the roots could be an issue, but the problem I've had with the structural part of it is some of those posts are not cemented in down 42". They went down to a certain point, filled with gravel and put concrete kicks on top of it.

Ms. Jeanblanc asked, so we know some of them are not deep enough?

Mr. Russell replied, I'm guessing a lot of them aren't. So you have a foundation, some of those posts are 42" below grade which is stationary and then these other posts are on gravel that are going to rise and fall with the ground. So you're going to have uneven, possibly major issues and that's where the Design Professional has to come up with something for us.

Dan Melaragno stated, wherever you see the light colored ones, all are embedded in concrete between 42, 48 & 50 inches of depth, so all the light colored ones are all to depth. All the way around the pool, all this I have them coming up, all the way from the ground through the deck, and they're actually supporting the rail, so it's one structure all the way down and strong as could be. Now all these other ones are on those precast concrete blocks that we dug as much as we could and this is where I was hitting the roots like crazy. Everywhere these are at, we couldn't dig anymore. We would get down 12", 10", 6" and we're just hitting root after root and we moved it around trying to get to other spots and we just couldn't. When we moved into this house years ago, the entire back yard was a forest, trees everywhere. It caused so many problems on the house, that little by little every year we'd take down one or two. Thirteen years later we finally got to a point where I only have a few trees left.

Ms. Jeanblanc asked, so these aren't live tree roots?

Mr. Russell stated, we also have the issue with the size of the holes, that's where the Design Professional has to get involved again too. The code depicts 14" as the minimum size footer circumference. Some are 8" around and some 12", but that's where verification has to come in and the entire deck is covered with a T-111 so I wasn't able to verify any type of structure components.

Applicant request for ‘Variance Continuous’

Michael Lograsso stated, the Melaragno’s would like to engage the Design Professional that would come out, look at it, review it and determine, tell them this is good, this needs to be redone, this needs to be fixed, obviously to the approval of Mr. Russell. Obviously we can’t do it now because of the weather. We’re thinking a conditional or continuous variance until this can be addressed, would be appropriate in this circumstance, they’re not using it, the kids aren’t using it now, it’s sitting vacant at the time. It’s going to take us a little bit of time. Like I said, I’ve gotten involved in the very near past here. There were some issues going back and forth with Mr. Russell and my clients, so I got engaged and called up Mr. Russell and said I want to get this worked out with you and make sure everything is done to the way the Village wants it to be. I’m the Law Director in a couple other communities in the area, I know how these things work, I’ve known Diane here many years. The Melaragno’s want this to be done right, they want to comply, they want to be good citizens of this Village, they want to be good neighbors.

Ms. Jeanblanc asked Ms. Calta, what’s the process for a continuous?

Ms. Calta replied, the manner can be stayed to another meeting. We can certainly do that. I would recommend that we table it to a date certain.

Michael Lograsso said, they’d like to get the Design Professional engaged, then I can tell you he or she needs ‘x’ amount of time to do whatever inspection they need to do and then we can get that date set.

Ms. Calta replied, I hear what you’re saying. For point of reference, Jan BZA regular meeting is 1/21 and Feb is 2/18.

Ms. Jeanblanc said, if we make a contingent decision, they have 6 months and that’s pretty firm, right, before it expires?

Ms. Calta replied, correct.

Mr. Kless stated, certainly 6 months would give them enough time to get a Design Professional involved.

Ms. Calta stated, I don’t want us to let this bleed into the spring and then you guys are going to want to open up the pool. I don’t want to go too far out.

Ms. Calta said, just one thing, if there’s anybody else that wanted to speak, I don’t know that we’ve let everyone speak yet.

Linda Castrataro, 6483 Foxboro Dr. introduced herself. I’m right next door to 6475. I wasn’t notified of the building of this pool and deck back in July. I expressed at the time to Debbie Garbo that I’m against this. I sent a letter yesterday, I don’t know if you have a copy of it.

Chairman Pro Tem Michalko confirmed everyone received a copy.

Linda Castrataro continued. I expressed this past summer to Debbie and Dan Russell in the Building Dept in Mayfield Village that if I would have been notified at the time this was going to be built, I would have been against it. Since this was built in July, I have water damage on my wood house and brick at the bottom, but mainly wood. I have water damages and other discolorations and a dirtiness problem on my house from the pool being built. It happened right after that. Whoever is involved with the building of this pool, whether it's maintenance or construction people, is involved with these damages and this dirtiness on my house. I'm not sure why, but it's there. I told them at the time and it got worse later. I got those perfect power washer people to clean the house and it wouldn't remove it. I attribute this to the pool being very close to my house and it's rather large. With the Aintree Park Homeowners Association, we were told you're allowed to build these type of units in the backyard. I have restrictions on what can be built, you're not allowed to just go ahead and do anything in your backyard, we have rules and things with the Homeowners Association and there's also rules set by Mayfield Village Police. This is a big problem with damages. I have a wooden deck in my backyard right next to the pool, I've had deck problems and it's gotten worse. I've had constant problems due to water damage and there's a dirtiness on both my wood deck and concrete. I think it's gotten significantly worse since this past summer. I've tried to deal with these problems but I'm 56 and disabled and it's hard for me to deal with anything. I have other people living in the house who are elderly, 90 & 91 and over 100 and they can't do anything. It's hard for me to be able to always respond to these issues. I tried to clean a little bit but the problem is still there. After I wrote this letter yesterday, I was thinking there's also a problem with my wooden fence in the backyard that has damages too, I've had it but it got worse after this past summer. I said I was against the deck and gazebo because that would add to more problems. Besides the damages, it depreciates the value of property in the neighborhood with units like that being built in the backyard. I didn't do as much in the backyard this past summer due to the neighbors were there a lot and I didn't feel comfortable going out there with them in the pool. I didn't go out on my deck or my backyard very much. I was never notified this summer when it got torn up, I asked Debbie but I was never told there was a meeting.

Ms. Calta said, can I address a couple of the things, I think you're sort of repeating some of the same things, so if I could just jump in. Number one, the Board of Zoning Appeals for Mayfield Village is tasked with enforcing certain provisions of the zoning code. In general, Mr. Russell the Building Commissioner is tasked with enforcing the building code, the zoning code and there are other provisions of our codified ordinances. Your Homeowners Association, we're not here to address anything with your Homeowners Association. If you have it and I believe you do have a Homeowners Association, then that would be with your Homeowners Association and that Board, we don't enforce that. I know there are some Homeowners Associations in the Village, but that's not something that we're here to address. If there's any damages as a result of construction, we're not here to address any of that unless it would invoke some sort of provision that there's been a violation of our code, then we could address it. As far as notification goes, the notification is triggered because we have this meeting and you were notified about this meeting. If there was a complaint and Mr. Russell responded to it and he had a visit meeting with the property owners, that's not something that we notify the neighbors about. But if there is a requirement for a variance, that is something that the neighbors are notified about.

Linda Castrataro said, I was told by the office I could come and comment on my position on the building and what was going on.

Ms. Calta replied, that's correct. From my understanding, the construction is complete, there's not going to be any further construction. There's no more adding to the deck, there's no more building another deck or another gazebo or anything like that. What has been constructed is what we're talking about.

Linda Castrataro said, I wasn't notified prior to the building of the pool. I was told by Debbie I could come and express my opinion as a neighbor about it. She didn't specify anything I was limited to and that's why I'm here.

Ms. Calta said, we understand why you're here. I just want you to understand what the Boards role is and what they will review, what they can do and why you were notified.

Linda Castrataro stated, I had a problem with it at the time, I called Debbie and spoke to the Building Commissioner and there's been more built and there's a shed in the back too and all that has hurt my property and I wasn't notified about any of that. I'm here objecting to it. I hope you'll consider these issues that I have. That's all.

Ms. Calta thanked Linda.

Michael Lograsso stated, Diane, in speaking with my client, if worse came to worse, he could actually disconnect the deck so it wouldn't be connected to the house and it would change the setback, right?

Mr. Russell replied, probably, but you would have to re-construct the deck.

Ms. Jeanblanc asked, would any variance be required?

Mr. Russell replied, no. Accessory structures have to be at least 10' away from property lines.

Ms. Calta said, the pool has to be 15'. If it's above ground, the only requirement I think is a fence with locking gates.

Dan Melaragno said, there's a railing around the entire deck.

Chairman Pro Tem Michalko said, I drove by, I could see a little bit from the street but not that much. I could see where the gazebo is.

Dan Melaragno replied, you're more than welcome to go check it out, you have my permission to go back there.

Chairman Pro Tem Michalko stated, this changes the variance request now if they're going to disconnect.

Ms. Calta said, that's going to change the plans then, but you haven't submitted those yet. When I was talking to Dan today, if I could just elaborate on what you just said. If you do that, we didn't want to be going sort of in a circle. So you don't need to submit plans and then come in and then get the variance and then decide hey I want to disconnect it and then get new plans. We wanted you to have a streamline process and if that's what you'd like to do, barring anything else, that would negate the need for the variance from this Board.

Mr. Russell stated, the major issue you have is the dark black posts, those are not 42" in depth. So from what I can see there, the whole construction of that deck is incorrect because you don't have a foundation for any of those. The majority of your posts are not at footer depth.

Ms. Jeanblanc asked, in terms of variance, do we have the standard we require about there being something unique to this particular property?

- **Linda Castrataro, 6483 Foxboro left the meeting at 6:40 p.m.**

Ms. Calta stated, variance factors are the variance factors, no change from applicant to applicant.

Ms. Jeanblanc asked, have we gotten any suggestion that this particular plot is different than the neighbors plot?

Ms. Calta replied, the only thing that I'm hearing is his tree roots have presented a problem.

Ms. Calta stated, I'm going to toss this back to you. If you guys would like to stay it, those are the things that we'd be looking for and I'd like to put those on the record;

- 1. Plans for the deck that would be stamped by a Design Professional certifying that it meets the Building Code.**
- 2. We need a gas inspection. We have the gas permit, we just need a gas inspection. I don't know what that means as far as intrusiveness and what might need to be exposed.**
- 3. We need an electrical permit and a plan from the Electrician.**
- 4. We need the deck permit, but that's going to dovetail with the other plans, so those have to come in together.**
- 5. We need the contact information for whomever stamps the plan.**

Michael Lograsso said, we have another neighbor here that wanted to give input.

Bob Lewis, 6499 Foxboro Dr. introduced himself. I've lived in Aintree for 25 years. The Melaragno's I think bought the house from Mr. Sweeny. They've done nothing but put upgrades in and making it look better. There's at least ½ dozen above ground pools with decks in our

neighborhood and this is by far the nicest. I hope we can figure something out without too much of a hassle. Thank you.

Ms. Jeanblanc said, it makes sense to bump this to January so they have the month to decide if they're going to keep the deck attached.

Ms. Calta asked, you tell me, January or February?

Michal Lograsso replied, I'd rather have February just because of the holidays and the need to get a hold of the Design Professional.

DECISION

Ms. Jeanblanc, seconded by Mr. Kless made a motion to table until February 18th meeting date as per the applicant's request.

ROLL CALL

Ayes: Mr. Michalko, Mr. Kless, Ms. Jeanblanc, Mr. Andrzejczyk, Mr. Haycox

Nays: None

Motion Carried

Proposal Tabled

Chairman Pro Tem Michalko asked, any other matters to discuss this evening?

There was none.

ADJOURNMENT

Mr. Michalko, seconded by Ms. Jeanblanc made a motion to adjourn the meeting.

ROLL CALL

Ayes: All

Nays: None

Motion Carried

Meeting adjourned at 6:45 p.m.

Chairman

Secretary