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M I N U T E S
OF THE MEETING
OF THE
BOARD OF ZONING AND APPEALS
INCORPORATED VILLAGE OF LAKE SUCCESS

January 27, 2025

7:30 p.m.

PRESENT:

- DAVID N. MILNER, CHAIRMAN
- LISA W. DAVIS, MEMBER
- STEPHEN LEVINE, MEMBER
- DAVID GRABER, MEMBER
- DAVID FALLICK, ALTERNATE MEMBER
- JOHN JAHNG, ALTERNATE MEMBER

ANDREA TSOUKALAS CURTO, ESQ. - ATTORNEY TO THE BOARD

Also Present:

- Robert S. Bonnie - Building Department Superintendant
- Stefan DeAlbuquerque - Building Department
- Lawrence Farkas - Trustee

1 CHAIRMAN MILNER: Good evening,
2 everybody. Right on time, 7:30.

3 I would like to welcome everybody to
4 the January meeting of the Board of Zoning and
5 Appeals of the Village of Lake Success.

6 My name is David Milner, I am the
7 Chair, and I will call the meeting to order.

8 We have one matter on this evening,
9 that is Case Number 2023-0263, this is a
10 request by the owner of 17 Lake Road for a
11 variance, effectively to maintain a fountain
12 and surrounding structures in the front yard,
13 which is not permitted, pursuant to Section
14 105-195 of the Village Code of Lake Success.

15 Who is presenting for the applicant?
16 If you please come forward and state your name.
17 Who is presenting for the applicant?

18 MR. HSU: My name is --

19 CHAIRMAN MILNER: Come on down.

20 Identify yourself for the court
21 reporter.

22 MR. HSU: Chih Hsu, for Jeffrey Liu,
23 for 17 Lake Road.

24 THE COURT: You are here for the
25 applicant?

1 MR. HSU: For the applicant.

2 CHAIRMAN MILNER: You are not the
3 owner?

4 MR. HSU: I am not owner, owner over
5 there.

6 CHAIRMAN MILNER: You are the
7 architect?

8 MR. HSU: Yes.

9 CHAIRMAN MILNER: You are presenting
10 for the architect?

11 MR. HSU: Yes, correct.

12 CHAIRMAN MILNER: So please explain --
13 as I understand this, this fountain, and looks
14 like a fence in a small courtyard --

15 MR. HSU: Yes.

16 CHAIRMAN MILNER: -- were built without
17 a permit.

18 MR. HSU: Yes, correct, sir.

19 CHAIRMAN MILNER: Why was it built
20 without a permit?

21 MR. HSU: Because he didn't know at the
22 time he need to file the application to the
23 town.

24 CHAIRMAN MILNER: My understanding is a
25 little different than that. My understanding

1 is that he sent an e-mail to the Village asking
2 if he needed a permit, and he was told that he
3 needed a permit. The prior code enforcement
4 officer told him to stop work, and he did not
5 listen.

6 MR. HSU: Ah. After the time he really
7 don't understand that much at the time because
8 he don't know English that well. So maybe he
9 misunderstood. I didn't know he e-mailed,
10 because he told me he didn't know he need the
11 permit for the fountain for that.

12 CHAIRMAN MILNER: Our records indicate
13 that he was told.

14 MR. HSU: Oh, okay. No problem.

15 CHAIRMAN MILNER: And he was told he
16 needed a permit, and when he started the work
17 the code enforcement officer told him to stop
18 the work until he got the permit and he
19 disregarded what he was told.

20 MR. HSU: I apologize for that.

21 CHAIRMAN MILNER: So now the Village is
22 faced with the following dilemma, we have a
23 fountain and a fence, which is not permitted
24 according to the Village Code. So your job is
25 to convince us to allow that to remain.

1 MR. HSU: Okay.

2 CHAIRMAN MILNER: So why should that
3 remain?

4 MR. HSU: Because, like -- can I show
5 you on the drawing?

6 CHAIRMAN MILNER: Sure. I drove by
7 this morning.

8 MR. HSU: Looks like on the front he
9 just want decoration on the front yard, plus
10 it's, like, feng shui for the good luck. For,
11 you know, the Chinese stuff they put, like, the
12 water, like, good luck for the money, and then
13 it's for decoration, it's not that high too
14 when the water came up it made it run a lot.

15 CHAIRMAN MILNER: So --

16 MR. HSU: And over here is the
17 fountain, is not oversized, anything like that.
18 We are not going to block any view or anything
19 like that because on the front is the tree on
20 the front, so it's not really that blocking any
21 view, everything like that.

22 CHAIRMAN MILNER: I drove by this
23 morning, it's very visible.

24 MR. HSU: Oh, okay.

25 CHAIRMAN MILNER: There's clearly

1 little bushes that are below, I will call it a
2 fence, fence that surround.

3 MR. HSU: Yeah, like, 4 feet high.

4 CHAIRMAN MILNER: I don't think any of
5 the bushes are taller than 4 feet. So it is
6 very, very visible.

7 MS. CURTO: You should ask the
8 applicant to go through the five factors.

9 CHAIRMAN MILNER: Yes, that's what I
10 was going to do.

11 There are five factors that the Board
12 of Zoning and Appeals has to consider before
13 granting the variance; are you familiar with
14 them?

15 MR. HSU: Not really.

16 CHAIRMAN MILNER: Let me ask you to go
17 over a couple of things.

18 First criteria is the benefit to the
19 applicant. What is the benefit to the
20 applicant?

21 MR. HSU: Like what you mean the
22 benefit to the applicant?

23 MEMBER FALLICK: Why is the applicant
24 putting it in?

25 MR. HSU: Because we want to try to

1 legalize it.

2 CHAIRMAN MILNER: No. The question is,
3 to ask this Board to approve a variance, you
4 need to demonstrate five factors that we take
5 into consideration and we weigh them.

6 The first question is, what is the
7 benefit of this structure to the applicant?

8 MR. HSU: I would say it's for, like,
9 make the town look better, the house look
10 better.

11 CHAIRMAN MILNER: So would you say it's
12 for aesthetics?

13 MR. HSU: Yes.

14 CHAIRMAN MILNER: Is this structure a
15 detriment to the neighborhood?

16 MR. HSU: No.

17 CHAIRMAN MILNER: Why do you say that?

18 MR. HSU: Because it's only -- it's on
19 the front of the front yard, and it's, like --
20 it's not that high, and not going to make any
21 sounds. Mostly at night he is turning off the
22 water, so will not do any sounds, anything like
23 that. Only in the morning time like the water
24 run, and wintertime it's the water is going
25 around, they will not waste the water, anything

1 like that. And then will not go make a foul
2 smell or anything like that to the
3 neighborhood.

4 CHAIRMAN MILNER: Are there any other
5 structures, fountains like this in the
6 neighborhood?

7 MR. HSU: No, I didn't see any.

8 CHAIRMAN MILNER: Okay.

9 MR. HSU: Because it's mostly purposes,
10 like, American, like, it's not Chinese.

11 CHAIRMAN MILNER: I appreciate that. I
12 don't mean to say anything adverse, but this is
13 America.

14 MR. HSU: I understand that. It's,
15 like, to the Chinese people when they buy a
16 house they want decoration and they want to
17 make feng shui, it's, like, good luck for the
18 family and for the time.

19 CHAIRMAN MILNER: I appreciate that.
20 But we have luckily many Chinese people who
21 live in this Village and we have no similar
22 structures that exist.

23 MR. HSU: I understand that, sir.

24 CHAIRMAN MILNER: The next one is
25 really -- the issue is whether or not there is

1 another alternative to this location, this
2 fountain. Could this fountain be put in the
3 back of the house?

4 MR. HSU: No, because the back they had
5 a living on the back so he cannot. Mostly
6 it's, like, when they have, like, some people
7 to look at it, whereas the place to put it is
8 for the good luck, it's not, like, you can put
9 anywhere, like, any location for that.

10 CHAIRMAN MILNER: Do you have anything
11 to support your statement, like something from
12 Chinese cultural literature that you can give
13 to the Board to consider that?

14 MR. HSU: That I have to -- it's mostly
15 in Chinese, so it's so hard -- maybe John know
16 about this.

17 CHAIRMAN MILNER: Now, the next
18 question is whether or not this variance that
19 you are requesting is substantial? Do you
20 feel -- does your client feel it's substantial?

21 MR. HSU: No.

22 CHAIRMAN MILNER: Okay. Why do you
23 think it's not substantial?

24 MR. HSU: It's -- let me think.
25 Because to him it's -- it's like -- how do I

1 say? Hold on a second. Would not be effect to
2 anything because he is a businessman, so he do
3 all the business in China and then he bring the
4 order, like, manufacturing to the U.S. So a
5 lot of time to him is make sure the money can
6 run around with that.

7 CHAIRMAN MILNER: Okay. I am not quite
8 understanding how relevant that is to the
9 question --

10 MR. HSU: Sorry about that, David.

11 CHAIRMAN MILNER: -- whether or not
12 this is substantial, okay, you say no. And
13 whether there are adverse effects by having
14 that fountain.

15 MR. HSU: What you mean by effects?

16 CHAIRMAN MILNER: To me, and a lot of
17 this is based upon some letters that we
18 received from his neighbors --

19 MR. HSU: Okay.

20 CHAIRMAN MILNER: -- who were
21 objecting --

22 MR. HSU: Oh.

23 CHAIRMAN MILNER: -- to the fountain
24 and the structure --

25 MR. HSU: Okay.

1 CHAIRMAN MILNER: -- because they feel
2 it changes the look of the neighborhood --

3 MR. HSU: Okay.

4 CHAIRMAN MILNER: -- and it's something
5 that does not exist anywhere else.

6 MR. HSU: We can design it if you
7 want to make the neighborhood feel comfortable
8 for that, we can design it for the front or the
9 style.

10 CHAIRMAN MILNER: You have to -- I did
11 not understand.

12 MR. HSU: This mean we can redesign how
13 the way it looks.

14 CHAIRMAN MILNER: Okay.

15 And last but not least, and this is
16 easy, this is a self-created hardship.

17 MR. HSU: Okay.

18 CHAIRMAN MILNER: He didn't find it
19 there, okay, when he bought the house, he put
20 it in there himself.

21 MR. HSU: Yes.

22 CHAIRMAN MILNER: So anybody on the
23 Board have any questions?

24 MEMBER FALLICK: Yes, I do.

25 Are you, sir, yourself familiar with

1 the Village building code?

2 MR. HSU: Depend what kind of code.

3 MEMBER FALLICK: The Village of Lake
4 Success has a building code that exists to give
5 what is permissible to be built on a house --

6 MR. HSU: Yes, sir.

7 MEMBER FALLICK: -- and the
8 restrictions and the covenants and everything
9 that are allowed.

10 MR. HSU: Yes, sir.

11 MEMBER FALLICK: My question to you,
12 sir, as a licensed architect, are you familiar
13 with the Village of Lake Success building code?

14 MR. HSU: Yes, sir.

15 MR. FALLICK: Okay. Is there anything
16 that you've read in the building code that
17 permits this type of structure?

18 MR. HSU: Yes. I think I did because
19 we -- I filed application as not, like,
20 structure -- like, making structural on new
21 buildings or extension of the building, it's
22 only for a decoration for the house, so I don't
23 know what kind of code you talking about.

24 MEMBER FALLICK: My question again is
25 to you, is there anything that you understand

1 in the Village of Lake Success building code
2 that permits this type of structure?

3 MR. HSU: Yes, sir.

4 MEMBER FALLICK: What is it?

5 MR. HSU: You need to get the
6 construction permit, you need to get the
7 plumbing permit, you need to get the electrical
8 permit for this. But the plumbing-wise,
9 because they not using -- they not connect
10 anything to pipe, so normally it's only
11 construction and electrical application for
12 this job.

13 CHAIRMAN MILNER: Are you familiar with
14 Village Code Section 105-195 B(A)?

15 MR. HSU: No.

16 CHAIRMAN MILNER: Which requires a
17 minimum front yard depth of 50 feet in that
18 area?

19 MR. HSU: Yes. But I had a good
20 question, they not cover up the front, it's,
21 like, just decoration, so I don't know what it
22 was about the code.

23 CHAIRMAN MILNER: The fountain, the
24 fence, and I presume there is some kind of a
25 path walkway, I didn't go on the property,

1 that's a structure.

2 MR. HSU: Okay.

3 CHAIRMAN MILNER: You are not permitted
4 to build a structure in the first 50 feet of
5 your property on Lake Road.

6 MR. HSU: Oh, that I understand, that
7 you cannot build anything like. But to me
8 understand is, like, the 50 feet you cannot
9 cover it, meaning you cannot enclose it.
10 Meaning if I build a garage over there on the
11 front that is enclosed, enclose it, but the
12 front is not enclosed, it's open.

13 CHAIRMAN MILNER: Well, that is open if
14 you say there is no roof, it's quite closed if
15 there is concrete, and I don't know what
16 material.

17 MR. HSU: There's no concrete, it's
18 only brick.

19 CHAIRMAN MILNER: Brick and concrete
20 are pretty close.

21 MR. HSU: There's only the brick on the
22 bottom and then it's not really brick, really
23 it's a tile, and plus there is no concrete over
24 on the bottom. If you want I can open the
25 bottom for you and take a picture to send.

1 CHAIRMAN MILNER: Brick, that's the
2 same as concrete, as far as I'm concerned.

3 MR. HSU: Okay, got you.

4 CHAIRMAN MILNER: I don't know if the
5 fountain and the fence are a type of marble or
6 other type --

7 MR. HSU: Marble.

8 CHAIRMAN MILNER: It's marble, that's a
9 stone.

10 To me, I am not an architect, I am not
11 a builder, but that looks like a structure.

12 MR. HSU: Okay.

13 CHAIRMAN MILNER: It's not a tree, it's
14 not a bush, it's not grass, it's something that
15 was manufactured, built and installed.

16 MR. HSU: Okay.

17 CHAIRMAN MILNER: That's a structure.

18 MR. HSU: If you want I can give you
19 all the manufacturer, what kind of material,
20 everything like that to you.

21 CHAIRMAN MILNER: That's not necessary.

22 MR. HSU: Okay.

23 CHAIRMAN MILNER: Anybody else have any
24 questions?

25 MR. HSU: David, can I ask you some

1 question?

2 CHAIRMAN MILNER: Sure.

3 MR. HSU: Because like to me,
4 understand for the building code, everything
5 is, like, if you use something to cover it up
6 that will go, if they have to use FAR or like
7 blocking stuff, but when you just put something
8 that's open and fence, I don't get, like, what
9 is against the 50 feet?

10 MS. CURTO: Can I address that? No
11 structures are permitted in a front yard.

12 MR. DeALBUQUERQUE: No fence.

13 MS. CURTO: Fences are not permitted,
14 structures are not permitted, landscaping is
15 permitted, that's it. Not permitted.

16 CHAIRMAN MILNER: The Village has a
17 very simple process, we have a Village code,
18 when you want to build something, no matter how
19 small you may think it is -- this is for your
20 future clients --

21 MR. HSU: Okay.

22 CHAIRMAN MILNER: -- when in doubt, ask
23 the building department, they will sit with
24 you, they will tell you what you can and cannot
25 do. And if you work with them you won't be

1 faced with this in the future.

2 MR. HSU: Thank you.

3 CHAIRMAN MILNER: You were told, you
4 and your client, that what you want to do in
5 the front yard is not permissible. You
6 could've asked for a variance, like you just
7 did, and you could come in front of us and ask
8 for a variance, and you'd be asking for it
9 before you spent the money to build something.

10 MR. HSU: That I can understand.
11 Because when I take over the job, the job was
12 already hundred percent completed construction.

13 MEMBER FALLICK: That's your first
14 problem.

15 MR. HSU: But after they got violation
16 they look for me, so that's why I try to see
17 can I legalize it.

18 MEMBER FALLICK: I understand your
19 position.

20 CHAIRMAN MILNER: I will tell you, we
21 also frown -- at least I frown on anybody that
22 decides to do something without coming in for a
23 permit that requires a permit, builds it, I
24 don't care how much money it costs, and then
25 asks for permission to have a variance given to

1 them, even though it wouldn't otherwise be
2 given.

3 And we have been very, very consistent
4 with all of our residents who spent a lot of
5 money building things that they shouldn't have
6 built without a permit and then taking it down.

7 MR. HSU: I understand. I apologize.

8 CHAIRMAN MILNER: Anybody in the
9 audience have any questions?

10 (Whereupon, there was no response.)

11 CHAIRMAN MILNER: I don't --

12 MR. BONNIE: Excuse me, Mr. Chairman.
13 We have letters from the community.

14 CHAIRMAN MILNER: I was getting there.

15 MR. BONNIE: Okay.

16 CHAIRMAN MILNER: I have four letters
17 that were sent to us, I don't really want to
18 read them into the record.

19 MS. CURTO: You don't have to.

20 CHAIRMAN MILNER: Basically --

21 MS. CURTO: State who sent them.

22 CHAIRMAN MILNER: We have letters that
23 were sent to us from the owners of 2 Lake
24 Road --

25 MR. HSU: Okay.

1 CHAIRMAN MILNER: -- 15 Lake Road, 18
2 Lake Road and 21 Lake Road, all of whom are
3 objecting to the structure --

4 MR. HSU: Oh, okay.

5 CHAIRMAN MILNER: -- and the existence.
6 And we really do take into account what
7 the neighbors say.

8 MR. HSU: Okay.

9 CHAIRMAN MILNER: So apparently 2 Lake
10 Road is substantially away from the property,
11 but the other three are relatively close, one
12 is across the street, and I think the other two
13 are basically on either side of the property if
14 I have the addresses correct, so we take that
15 into account --

16 MR. HSU: Okay. No problem.

17 CHAIRMAN MILNER: -- when reviewing an
18 application.

19 They are part of the record, if anybody
20 wants to see them, read them.

21 They are part of the Village record,
22 correct, Andrea?

23 MS. CURTO: That's correct.

24 CHAIRMAN MILNER: So that's part of our
25 record.

1 So does anybody have any other
2 questions?

3 (Whereupon, there was no response.)

4 CHAIRMAN MILNER: We've got Lisa,
5 David, David and Steve, okay, we are the four
6 members. You guys are alternates. Because we
7 have a quorum, the four of us have to make the
8 determination.

9 MS. CURTO: Five.

10 CHAIRMAN MILNER: Five. Do you
11 remember who --

12 MS. CURTO: Who is the first alternate?
13 I don't know.

14 CHAIRMAN MILNER: I will let them both
15 vote.

16 MS. CURTO: Okay.

17 CHAIRMAN MILNER: In order to be given
18 the variance, three members of the Board have
19 to vote in favor of the variance.

20 MR. HSU: Okay.

21 MS. CURTO: You have a five member
22 board, so five members should vote.

23 CHAIRMAN MILNER: So two of you choose
24 whose playing tonight. Who is off the bench
25 tonight?

1 MEMBER JAHNG: You vote.

2 CHAIRMAN MILNER: David is off the
3 bench.

4 MR. HSU: Why you off the Board?

5 MS. CURTO: Anybody in the public have
6 any comments?

7 CHAIRMAN MILNER: I asked that
8 question.

9 MS. CURTO: Okay.

10 CHAIRMAN MILNER: I am going to make a
11 motion that we grant a variance to permit the
12 fountain and accompanying structure that
13 currently exists at 17 Lake Road to remain.

14 I will call the role. Lisa?

15 MEMBER LEVINE: You need a second.

16 MEMBER DAVIS: Second.

17 CHAIRMAN MILNER: I will call the role.
18 Lisa, yes or no?

19 MEMBER DAVIS: No.

20 CHAIRMAN MILNER: David?

21 MEMBER GRABER: No.

22 CHAIRMAN MILNER: Stephen?

23 MEMBER LEVINE: No.

24 CHAIRMAN MILNER: David?

25 MEMBER FALLICK: No.

1 CHAIRMAN MILNER: And I say no. Five
2 nos. The application is denied.

3 Thank you very much. The building
4 department will be in touch with you, walk you
5 through the process of what has to be done to
6 remove it.

7 MR. HSU: Thank you so much. Thank
8 you, everyone.

9 (Whereupon, the Board of Zoning and
10 Appeals was concluded and stood adjourned.)

11 *****

12 CERTIFIED TO BE A TRUE AND ACCURATE TRANSCRIPT OF
13 THE ORIGINAL STENOGRAPHIC MINUTES TAKEN OF THIS
14 PROCEEDING.

15 Mary Kate Waldron

16 MARY KATE WALDRON
17 COURT REPORTER

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