

**BRADLEY BEACH ZONING BOARD
OF ADJUSTMENT**

**SEPTEMBER 20, 2012
Regular Meeting**

The meeting was called to order by Chairman Conoscenti at 6:30 P.M.
Pledge of Allegiance
Open Public Meetings Act was read.

ROLL CALL: MEMBERS PRESENT – Chairman Conoscenti, Vice Chairman Goldfarb, Mr. Rosenberg, Mr. Bachar, Ms. Falk, and Alternates Mr. Quinlan, Mr. Young and newly-sworn in Mr. Wade

MEMBERS ABSENT: Mr. Kovach, Mr. Bachar, Mr. Battipaglia, Mr. Carrea
Also in attendance were Board Attorney Richard Stone, Esq., Elissa Commins, Board Engineer, and Stephen LoSacco, Zoning Officer.

A QUORUM WAS PRESENT

APPROVAL OF MINUTES: The minutes of the meeting on August 16, 2012, were approved on motion made by Mr. Rosenberg and seconded by Ms. Falk, and carried by unanimous vote.

JOINT SUBCOMMITTEE REPORT: Mr. Rosenberg reported on the joint subcommittee report held September 6, 2012. He stated that the report and recommendations for trees on Main Street of the Shade Tree Commission was being continued to the next meeting scheduled for October 11, 2012. Topics of discussion at this meeting included the following: The zoning officer will revisit signage on Main Street, and when necessary, send letters; continued discussion on the revisions to selected ordinances that include definition of trucks, what can be parked in front yard driveways, and planting strips; and review of benefits for volunteers of emergency services (OEM).

MEMORIALIZATION: None Scheduled

CONTINUATION:

**ZBA#411-1-06-12 – Michael J. Wenning, Esq.
JAMES DOUGHERTY, 506 Central Avenue, 50/24
Demolish existing SF residence and construct new SF
Residence – BULK VARIANCES**

Chairman Conoscenti announced that this matter was being transferred to the Planning Board for an amended application to include a subdivision.

NEW BUSINESS:

**ZBA#411-1-05-12 – Pro Se
CAROLE O'TOOLE, 404 Park Place Avenue
17/14 – Fence Height Variance**

The following exhibits were introduced into evidence:

A-1 Application of Carole O'Toole for a variance for a 6 Ft. fence and gate at front of PIQ, including survey (dated Nov. 21, 1985) and photos of said fence and gate.

The application was signed by the applicant and dated 06/29/12.

A-2 New survey prepared by Seneca Survey Co., Inc. and signed by James J. Kuhn, Surveyor, dated July 26, 2012.

A-3 Seven color photos of fence, gate and PIQ

A-4 Certified Receipts of Mailing to property owners dated August 1, 2012, and two additional Receipts of Mailing dated August 13, 2012 to property owners not noticed on 08/01/12,

A-5 Copy of Notice to Property Owners signed by applicant.

A-6 Affidavit of Publication of Asbury Park Press dated August 2nd, and August 15, 2012.

A-7 Affidavit of Mailing signed by applicant and dated August 2nd and August 15, 2012.

B-1 Letter of Elissa Commins, of Birdsall Services Group, dated August 8, 2012.

Applicant, Carole O'Toole, was sworn in by Attorney Stone. She stated that she has owned the PIQ since 1983, and installed her 6' fence and gate for privacy and protection. Chairman Conoscenti raised the issue of sufficient off-street parking spaces, and after discussion, it was determined that when the gate was open, there was sufficient room for two off-street parking spaces. Upon being questioned, Ms. O'Toole stated that the garage has never been used by her for placement of a car, but one that is used for storage. Further, she noted that she works in the city and leaves very early and returns after dark, and that the fence provides her with the safety and protection she needs. Ms. O'Toole then described the fence and gate explaining that the locked gate can be opened and can also be chained to be open. As noted previously, with the opening of the gate, a second car is able to fit.

Board members expressed concerns that once a 6' fence was allowed in the front, others would request the same. Ms. O'Toole responded that with a 4' fence, someone could easily climb over it and it would not provide the privacy she is seeking. Other points of discussion included pavers behind gate provide parking for a car; access to house and wall height; grade level and impact on fence height; the

existence of a prior arbor and gate that was taken down and then put up again; and reference to the pictures (Exhibit A-3). At this point, Ms. O'Toole described the vandalism that she experienced in and around her property. Further, she stated that she did report the vandalism to the police department, but did not have any documentation in her possession at this time.

Chairman Conoscenti opened the meeting up to the public:

Troy Bianchi, 414 Park Place Avenue – inquired if all in the neighborhood could then get a 6' fence (he was informed that each matter is weighed on its own merits). Further, he stated that a 6' fence is too high.

Evelyn Lopez, 417 Park Place Avenue – Complimented the applicant on the improvements to her house; however, stated she was not happy with the gate and fence. Ms. Lopez further stated that they live on a nice block in a nice neighborhood, but in her opinion, allowing the 6' fence would only “open up a can of worms”.

The public portion was closed by Chairman Conoscenti.

After a further discussion among the Board members, Chairman Conoscenti initially made a motion to DENY the application. However, prior to a second on the motion, it was withdrawn and Attorney Stone offered guidance and an explanation to the applicant to consider an alternate solution to the 6' fence issue and perhaps to consider a lesser fence. Discussion then ensued and the applicant requested she keep the same solid fence, but would cut it down to 4'.

Thereafter, Chairman Conoscenti made a motion to GRANT the application for a four (4) foot fence in the front with the following conditions: 1) The six (6') foot solid fencing with gate across the front be reduced in height to four (4) feet; 2) the change to the fence height be completed immediately; and 3) appropriate permits be obtained for the fencing. It was noted the sunset clause does not apply in this instance as the fence is existing and the change in fence height is to be done immediately in accordance with the conditions of the resolution.

Said motion, with conditions, was seconded by Ms. Falk, and carried by the following vote:

AYES:

Mr. Young – stated that it would be one foot more only in the driveway.

Mr. Quinlan – stated that even when cut down, one could look over and would be safer.

AYES Continued:

Ms. Falk – the change maintains the aesthetic value to the property and the fence is set far enough back so that it satisfies privacy and safety concerns.

Vice Chairman Goldfarb – the height is being reduced two feet and it is set far back on the property.

Chairman Conoscenti – because it is set far back, it is not that imposing and sees no problem with the 4' fence.

NAYES:

Mr. Wade – fears it would set a precedent and it is not a good idea for the front.

Mr. Rosenberg – the ordinance states that the fence is to be three (3) feet for the area and we should not be setting a precedent by changing it.

ABSENT: Mr. Kovach, Mr. Bachar, Mr. Battipaglia and Alt. Mr. Carrea

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The Board then discussed a change in the November meeting date, and it was agreed to have the meeting on NOVEMBER 15TH, rather than November 8th.

The meeting was adjourned at 7:30 p.m.

Respectfully submitted,

Frances M. Sauta, Board Secretary