

**MINUTES OF MEETING
ZONING BOARD OF ADJUSTMENT
TUESDAY, AUGUST 1, 2023, 4:00PM**

DOCKET 1392

38 DEERFIELD TERRACE

A meeting of the Zoning Board of Adjustment was held at 4:00 p.m. on Tuesday, August 1, 2023.

The following members of the Board were present:

Chairman Liza Forshaw
Ms. Laura Long
Ms. Elizabeth Panke
Mr. Jon Dalton
Mr. Lee Rottmann

Also present were Mayor Spewak; Erin Seele, City Attorney; Andrea Sukanek, City Planner; Mark Koester, Stormwater Engineer; and Lori Mullins, Deputy City Clerk.

Chairman Forshaw called the meeting to order at 4:01 P.M.

Approval and Adoption of the Agenda and Minutes

The agenda was adopted unanimously upon motion by Ms. Long and second by Ms. Panke.

The minutes of the July 11, 2023 meeting were approved unanimously upon motion by Ms. Panke and second by Ms. Long.

Docket 1392

Petition submitted by Felix and Malissa Ungacta for the property located at 38 Deerfield Terrace. The petitioner is requesting relief from the storm water engineer denying a landscape berm which appears to cause an increase in the water surface elevation because it reduces the available storage for sinkhole flooding. This is in violation of Ladue Ordinance 2250.

City Stormwater engineer Mark Koester took the oath and stated that the applicant is requesting a variance to erect 2-3' high berms to alleviate flooding. The area was identified in the stormwater master plan, and the City planned a \$10 million dollar project to address the flooding issue. However, a few of the twenty neighbors refused to sign easements and the project was stalled. After several attempts to move forward, the project was put on the inactive list. As sinkholes are necessary to collect and slowly release storm water, the City passed a sinkhole ordinance in 2020. There are 3 sinkholes near the applicant's property. The proposed berms would reduce available stormwater storage in a sinkhole in violation of the City's sinkhole ordinance. The berms would create a rise in the stormwater runoff calculated to be less than an inch over 5 acres.

Chairman Forshaw introduced the following exhibits to be entered into the record:

Exhibit A – Zoning Ordinance 1175, as amended;

Exhibit B – Public Notice of the Hearing;

Exhibit C – Letter of Denial dated March 28, 2023;

Exhibit D – List of Residents sent notice of meeting;

Exhibit E – Letter from the resident requesting the variance dated July 5, 2023;

Exhibit F – Entire file relating to the application

Exhibit G – Photo presented by the applicant

Dr. Felix Ungacta took the oath and presented photos demonstrating past significant stormwater damage and difficulties. He stated that the sinkhole ordinance was intended to protect residents but is keeping him from protecting his property. He has used sandbags, which are functional at keeping the water at bay, but they are not attractive and have to be continually replaced. The proposed berm would provide a permanent solution. Dr. Ungacta explained that the sandbags also serve as a berm, and do not increase flooding for the neighbors.

They engage a sump pump, but it doesn't always help when the power goes out; even a generator cannot work when it is under water.

The water largely recedes within 24 hours.

Dr. Ungacta said he did not realize there was a sinkhole ordinance in addition to a berm ordinance when he started the work.

He pointed out that he engaged Volz Engineering to calculate a less than 1 inch rise in water over 5 acres. A representative of Volz Engineering took the oath and confirmed this calculation. Mr. Koester said he agreed with this calculation.

Matt Hardin, 30 Deerfield Terrace, Lisa O'Neill, 34 Deerfield Terrace, Erin Budke, 32 Daniel Road, Elizabeth Thornhill, 29 Deerfield Terrace, and Clark Wolfsberger were sworn in, All but Mr. Wolfsberger supported the variance. Mr. Wolfsberger said his property is at the low point of the area and it could be negatively affected by the berms. He stated that the Ungactas' addition of a pool could have exacerbated the flooding problem.

Board discussion included the possible impact on other residents, and the problem of setting a precedent.

After board discussion, Ms. Forshaw presented the applicant with the option of a continuance, which was promptly requested. Ms. Forshaw granted the continuance.

Adjournment

The meeting was adjourned unanimously upon motion by Ms. Long and second by Mr. Rottmann at 5:53 p.m.



Ms. Liza Forshaw, Chairman