

WEST AMWELL TOWNSHIP
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
February 28, 2012

The West Amwell Township Zoning Board of Adjustment regular meeting was called to order at 7:30PM by Chairman Fulper.

The following statement of compliance with the Open Public Meetings Law as listed on the meeting agenda was summarized by Chairman Fulper: This meeting is called pursuant to the provisions of the Open Public Meetings Law. This meeting was included in a list of meetings transmitted to the Hunterdon County Democrat and Trenton Times on January 29, 2012. Notice has been posted accordingly and a copy of this notice is available to the public and is on file in the Zoning Board of Adjustment Office. The meeting was recorded via digital recording system and a copy of the CD is on file in the Zoning Board of Adjustment Office.

Chairman Fulper led the Pledge of Allegiance to the American Flag.

ATTENDANCE/ROLL CALL:

Roll call on attendance: John Cronce-present, Brian Fitting-present, Ruth Hall-present, John Dale-present, John Ashton (ALT. #1)-present, John Hoff (ALT. #2)-present, Robert Fulper-present.

Absent: Joe Romano, Dave Sanzalone

Professionals Present: Stewart Palilonis, Board Attorney; Tom Decker, Board Engineer

PRESENTATION OF MINUTES:

Regular Meeting Minutes – January 24, 2012 – Motion was made by Cronce with a second by Hall to accept the minutes as presented. Roll call: Cronce-aye, Fitting-abstain, Hall-aye, Dale-abstain, Ashton (ALT #1)-aye, Hoff (ALT. #2)-abstain, Fulper-aye.

RESOLUTION(S) OF APPROVAL: none

APPLICATION(S):

Continued Completeness/Public Hearing: Zone 7, LLC – Block 14 Lot 13– 540 Route 31 North- Variance Request-Use (7:33 PM)

Application, checklist, and plan titled “Existing Conditions Survey”, comprised of one sheet prepared by Heritage consulting Engineers dated 2/8/2012, plan titled “B-14/L-13/540 Rt. 31; 4-23-96 ZBOA Use Variance to Landscaped Contractor, comprised of one sheet, plan titled “Site Plan for Route 31 Partners”, sheet 1 of 3 prepared by Heritage Consulting Engineers dated September 5, 1996, last revised September 4, 1996, were received and distributed.

Chairman Fulper related that Zone 7 was before the Board in January and presented the original engineering plan dated 1996. The Board expressed concerns with the outdated plan, Zone 7 made the decision to have the plan updated to reflect current conditions.

Bob Casey, attorney for the applicant, stated they are seeking a “d” use variance for a produce distribution location and are also here for a waiver of site plan approval, and have presented an as-built. Testimony will show that the plan is the as-built, nearly identical to the 1996 plan. Therefore requesting site plan approval be waived. Applicant distributed a 9-page pamphlet providing an overview of Zone 7 LLC.

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The following witnesses present on behalf of the applicant were sworn in by Attorney Palilonis:

William Azzara – co-owner Zone 7 LLC - 3 Lambert Lane, Lambertville, NJ 08530

Michael Azzara – co-owner Zone 7 LLC - 840 Pretty Brook Rd. Princeton, NJ 08540

Mike Azzara stated they are a farm fresh distribution company founded in 2008 and working with farms in NJ and Pa. Zone 7 coordinates with restaurants and farms, selling over the phone. Pick up from the farms is done on one day of the week with the company vehicle. Distribution is two to three days per week via company vehicles.

Attorney Palilonis questioned whether the use would come under the “right to farm” as defined by the State Farm Bureau, Mr. Casey stated that there is currently no farming that is taking place and probably falls outside of the “right to farm”. Chairman Fulper offered that it is based on best management practices involved in farming activities; it would probably be outside of the exemption.

Zoning Officer Baldino stated that he didn’t consider “right to farm”, initially thinking he would, but because they are not farming the property the application had to be reviewed on the distribution center; bringing the material in and shipping it back out.

Mr. Azzara stated they will be using the existing structure, adding refrigerated coolers inside the building. Three vehicles will be utilized; one sprinter van and two 18ft trucks to pick up from the farms and delivering to the restaurants and markets. Mr. Azzara wished to clarify the possibility of future farming, stating it was better characterized as a large garden on site that has previously been used for said purpose and would not require any extensive use of water or other resources.

Positive aspects that are being brought; support local agricultural, existing structure will be used, filling a vacant space that would likely remain vacant without some sort of zoning variance. Stating it is an industrial structure with office space; opining that Zone 7 represents one of the best potential uses for the space.

Mr. Azzara stated while Zone 7 is a for profit company they are mission driven, the mission is to strengthen the local and regional food chain; indicating they have received positive press for their efforts.

Attorney Palilonis requested clarification on the previous use; Mr. Decker stated the previous use was a conditional use approved in 1996 for a landscaping business with one of the conditions requiring relief for outdoor storage.

Engineer Tom Decker of VanCleaf Engineering was present on behalf of the Board, Review letter dated February 27, 2012, was received and distributed. Engineer Decker referred to page 3, beginning with item 1. Mr. Azzara stated days of operation typically are Monday through Friday, 7am to 6pm, adding expecting to occasionally be there on the weekend. There would be two full-time employees and 10 part-time employees, with a total of five on duty at any one time. Mr. Azzara stated that on Tuesday they pick up the products using their three vehicles and on delivery days; Wednesday, Thursday, Friday, two trucks and one van go out between 7am and 9am, returning back any time between 2pm and 4pm. Stating they are not opposed to a farm delivering their product to Zone 7 but they have only ever had two that have done that. Mr. Azzara clarified that Tuesday is pick up day and Wednesday, Thursday and Friday are the days that they distribute the product.

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Mr. Decker referred to the loading dock at the rear of the building and the garage bays on the other side, Mr. Azzara stated that for efficiency they planned on using the rear loading dock, with plans of improving the area. Mr. Azzara testified there will be no retail sales. With regards to lighting, plans are to have limited radius lighting at the loading dock. The refrigeration units will be inside the building with condensing units outside. Mr. Azzara stated that the noise levels have been considered; for efficiency purposes as well as noise levels a significant increase in cost has been added to get a higher efficiency, low decibel unit. A dumpster will be obtained for waste with a board on board enclosure constructed.

The following witness present on behalf of the applicant was sworn in by Attorney Palilonis:

Mark Pennink - Blk 14 Lot 13 property owner - 3131 Creek Rd, Huntington Valley, PA

Mr. Pennink stated the garden area is to the south at the back corner of the building.

Mr. Azzara stated the garden would be educational for their chefs to come and take a look at what would be offered to them. There is also a possibility for school children to come and learn about gardening through a field trip event, not intended as educational facilities.

Mr. Decker pointed out that the existing handicapped space does not meet current standards, Mr. Azzara agreed to have it brought into compliance.

Chairman Fulper opened questioning to the Board members:

In response to Board questioning Mr. Azzara stated, if the garden was successful much of the waste would be composted, otherwise the most common waste would be extra boxes from the goods being picked up. Also stating they would sell eggs, cheese, dairy, and poultry occasionally, produce is 99% of the business. No test kitchens.

Chairman Fulper suggested the company vehicles be parked in a location that offers the most buffering. Mr. Azzara responded, stating the condensing units will be located on the south side of the building at a distance greater than 200ft from the nearest residence.

Chairman Fulper opened questioning to the public:

Ed Shubert - 7 Poplar Road – requested clarification on the process after pickup from the farmer. In response Mr. Azzara stated it is unloaded and put into the cooler, adding ideally it is already in boxes.

Chairman Fulper closed questioning to the public:

Mr. Casey reviewed the positive criteria stating 40:55D-2a. has been met. Adding, this application is about agricultural and food, and building a base for distribution of these food products which clearly promotes the general welfare. Also, 40:55D-2g. has been met, stating although it doesn't fall into farming, it does fall into agriculture. The permitted uses in the RR5 zone are fairly close to this application.

Negative criteria – Mr. Casey stated there will be no impact on the neighbors. The location is ideal for this type of operation. The use is limited to the size of the building. The variance sought is consistent with the intent and purpose of the zone plan. Applicant is requesting waiver of site plan approval, stating other than the dumpster structure and a mounted light by the loading dock

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there is no other need for site plan approval. Requesting the use is granted and site plan approval be waived.

Motion was made by Cronce with a second by Dale to grant permission for Zone 7, LLC to use the existing structure as a fresh fruit and vegetable distribution center. Roll call: Cronce-aye, Fitting-aye, Hall-aye, Dale-aye, Ashton (Alt. #1)-aye, Hoff (Alt. #2)-aye, Fulper-aye. Motion carried.

Motion was made by Cronce with a second by Fitting for the waiver of site plan based on testimony by the Board Engineer that all requirements have been met. Roll call: Cronce-aye, Fitting-aye, Hall-aye, Dale-aye, Ashton (Alt. #1)-aye, Hoff (Alt. #2)-aye, Fulper-aye. Motion carried. (8:10PM)

(Chairman Fulper related that there would be a brief recess at this time – Meeting recessed (8:11PM – 8:21PM))

CORRESPONDENCE:

The following items were distributed as correspondence:

Request from Clerk Olsen re: **Leadership form** for Dale and Sanzalone – Dale completed and returned said form to Secretary Hall

Ordinance to Amend **Ordinance 3, 2012** Renewable Energy Facilities

NJLM – A-1338 **Extend and Expands Permit Extension Act of 2008**

NJPO 2012 Membership Certificate, Membership cards – Secretary Hall provided signed membership cards to all members.

Zoning denial – 281 Goat Hill Rd. **Blk 29 Lot 1** – 6ft fence

Zoning denial –462 Route 31 **Blk 21 Lot 7** – 2800sf Pole Barn

1300 Route 179 **Blk 13 Lot 3, Evaluation Reports for resolution compliance.** Secretary Hall to check with Construction Department re: permits obtained for said property

Clerk Olsen - **Budget meetings** – March 7, 2012 or March 21, 2012. Secretary Hall to request that Chairman Fulper be scheduled for March 7.

Approval of Bill List 2/28/12:

A motion by Dale, seconded by Hoff to approve the Bill List for payment was unanimously approved by voice vote.

DISCUSSION:

Resolution 2012-08 – 2011 ZBA Annual Report – Resolution/Annual Report of 2011 containing cases heard by the Board for 2011 was presented by Secretary Hall. The ZBA is required to file the report annually with the Township Committee and Planning Board. Motion was made by Hoff with a second by Ashton to approve the resolution as presented. Motion carried on roll call vote - all ayes.

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Professional appointments - it was the consensus of the board to extend the engineer and planner contracts for the year 2012 to Engineer Decker and Planner Maski from VanCleeef Engineering.

A motion was made by Hall with a second by Ashton for the adoption of resolutions 2012-09 for VanCleeef Engineering Associates, Board Engineer Decker for the period 4/1/12 through 12/31/12. Motion carried on roll call vote—all ayes

A motion was made by Cronce with a second by Dale for the adoption of resolutions 2012-10 for VanCleeef Engineering Associates, Board Planner Maski for the period 4/1/12 through 12/31/12. Motion carried on roll call vote—all ayes

Attorney Palilonis was excused from the meeting at this time, 8:55PM

Discussion continued from the February meeting regarding the **Board Secretary salary**. Secretary Hall provided a monthly detail of job duties. Upon circulating a letter requesting salary range parity between boards, it was decided to revisit the original request. After a lengthy discussion between members it was the consensus of the board to request a salary range change with a suggested salary increase. Chairman Fulper to attend budget meeting scheduled for March 7, 2012.

OPEN TO PUBLIC:

The floor was opened to the public. Hearing no comments/questions, the floor was closed.

ADJOURNMENT:

A motion by Hoff, seconded by Dale to adjourn was unanimously approved by voice vote (10:34PM)

Respectfully submitted,

Ruth J. Hall