

WEST AMWELL TOWNSHIP
ZONING BOARD OF ADJUSTMENT
Regular Meeting
April 27, 2010

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

The following statement of compliance with the Open Public Meetings Law as listed on the meeting agenda was summarized by Chairman Cronce: 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 28, 2010. 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 copy of CD is on file in the Zoning Board of Adjustment Office.

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

ATTENDANCE/ROLL CALL:

Roll call on attendance: Brian Fitting-present, Dave Sanzalone-present, Robert Fulper-present, John Dale-present, John Ashton (Alt. #1)-present, John Hoff (Alt. #2)-present, John Cronce-present.

Absent: Ruth Hall, Joseph Romano

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

PRESENTATION OF MINUTES:

Regular Meeting Minutes – March 23, 2010 – Motion was made by Fulper with a second by Ashton for approval of the minutes contingent the following amendments:

- Kilmer Application - Page 3 - second paragraph to be amended to read, "Purpose of application is to move lot line to create an area in the back on lot 14 consisting of approximately 60 acres *on which a conservation easement will be sold to West Amwell Township*"; Page 6 - fifth paragraph to be amended to read, "*Septic suitability testing has been done for the proposed development...*" Motion carried on roll call vote - all ayes; Fitting, Sanzalone-abstain.

RESOLUTION(S) OF APPROVAL:

Resolution 2010-11 - Kilmer – Block 8 Lots 13, 14, 15, 53 - Route 179 - Lot Consolidations/Use Variance - State Highway 179 - Resolution as prepared by Attorney Palilonis was distributed. Attorney Palilonis related that a copy had been

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provided to the applicant's attorney, Neal Solomon, who takes no issue with the resolution as presented. Copy of Board of Health Resolution of Approval #05-2010 dated 3/25/10 was received and distributed. Motion was made by Fulper with a second by Dale for the approval of the resolution contingent upon the following correction: Page 3 – (a) – amended to "...Lot 14". Roll call: Fulper-aye, Dale-aye, Ashton (Alt. #1)-aye, Hoff (Alt. #2)-aye, Cronce-aye. Motion carried.

Resolution 2010-12 – Amended Resolution/Professional Services Contract – Board Engineer – Motion was made by Fulper with a second by Dale for the approval of the resolution as presented. Resolution names Tom Decker of VanCleeef Engineering as the Board's Engineer through 12/31/10. Motion carried on roll call vote – all ayes; Sanzalone-abstain.

Resolution 2010-13 – Mostofizadeh – Block 21 Lot 12 – Use/Bulk Variance and Minor Subdivision Application – Deny without Prejudice – Attorney Palilonis provided history to the new Board members on the application(s) filed on behalf of the applicant: Applicant applied to the Planning Board for subdivision approval to create one new lot and for variance relief for a pre-existing condition. The lot lies in two zones, HC and SRPD. The application was transferred to the Zoning Board of Adjustment for use variance relief since a portion of the new lot would lie in the SRPD zone. It was recognized that a rear yard and side yard relief for the existing residence was needed but the Board rendered decision that these were pre-existing conditions and therefore relief would not be required. The application was adjourned to enable the Board Planner to make a determination on the zone line interpretation which was subsequently received.

Attorney Palilonis recommended that the application be denied without prejudice due to the fact that the applicant failed to grant an extension of time for the Board to act on the application and the time to act would have expired before the next meeting of the Board. Applicant has subsequently re-filed application seeking a zone line interpretation and minor subdivision approval. Motion was made by Fulper with a second by Dale for the approval of the resolution. Roll call: Fitting-aye, Fulper-aye, Dale-aye, Ashton (Alt. #1)-aye, Hoff (Alt. #2)-aye, Cronce-aye. Motion carried.

APPLICATION(S):

Mostofizadeh – Block 21 Lot 12 – State Highway 31 - Zone Line Interpretation and Minor Subdivision Application - Leo Santowasso, P.E.,

and Robert Kren, P.P. of Heritage Consulting Engineers appeared on behalf of the applicant (previously sworn).

Revised application dated 4/9/10 and planning report from Planner Kren dated 4/5/10 were received and distributed. Report dated 4/22/10 from Board Engineer Decker was received and distributed. Minor Subdivision Plan with latest revision date of 4/26/10

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(Exhibit M-6) was distributed at the meeting (revisions made in response to 4/22/10 report from Engineer Decker). Two access permits as received from NJDOT were received by the applicant and filed with the Board and Engineer Decker at the meeting.

Mr. Santowasso provided an overview of the project. Decision was rendered by the Board's planner as to how the zone boundary line should be measured via a report dated 1/20/10. Based on the determination made by Planner Mercantante, the applicant is no longer in need of a use variance. By way of the revised application, applicant is requesting variance relief for buildable area on the land remaining (due to a series of environmental constraints), one lot minor subdivision approval, and zone boundary interpretation.

Mr. Santowasso related that initially measurements were taken from the existing highway right-of-way line which created a zone boundary line that went through a portion of the existing dwelling thus creating the need for a use variance. The Board's Planner recommended that the zone boundary line should be measured 700 ft. from the Route 31 right-of-way resulting in the line moving further away from the house thus removing the need for a use variance. It was noted that the revised plan shows a slight change in shape and location of proposed lot 12.01 as a result of comments provided in Engineer Decker's report. Based on opinion rendered by the Board's Planner, motion was made by Fulper with a second by Fitting finding that the zone boundary line shall be measured from the center of the highway. Motion carried on roll call vote – all ayes.

Mr. Kren provided testimony in regard to the applicant's need for C(2) variance relief associated with the lack of appropriate buildable area due to environmental constraints. Planner Kren provided an overview of his report dated 4/5/10 (Exhibit M-7) relative to this issue. The latest plan provided proposes to create a lot of approximately 4.0 acres fronting on Route 31 with remaining lands of approximately 30 acres containing the existing dwelling. Ordinance requires four acres of usable area on a lot in the SRPD district. Mr. Kren related that the house exists on the property and is surrounded by wetlands and wetlands transition areas. The land that is free of wetlands/transition areas is less than

four acres thereby requiring (C) variance relief. He noted that the buildable area of the remaining lands in the SRPD zone is a little over .5 acre and is contiguous to a buildable area in the HC zone of 1.979 acres for a total of 2.5 acres of buildable area.

Planner Kren related that his report reflects how the benefits of granting this variance request outweigh the detriments, specifically in that the development proposed is low intensity, the existing dwelling remains on a lot containing over 30 acres, and the proposed lot 12.01 will be free of constraints, i.e. wetlands, buffer areas, etc. He further offered that the development also respects existing C1 buffer requirements, and that the zoning variance can be granted without substantial detriment to the public good or the intent or purpose of the Township's zone plan.

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Engineer Decker did a cursory review of the plan submitted at the meeting offering that the technical comments of the 4/22/10 report have been addressed on the plan submitted. Engineer Decker offered his opinion that with regard to the variance request, there is no impact by the subdivision, specifically, in that it does not exacerbate the existing conditions. It was noted that a portion of the lot within the HC zone does satisfy the bulk requirements for minimum buildable area requirements.

In response to questioning, Engineer Santowasso advised that a permit has been obtained from NJDOT for access to proposed lot 12.01 and a temporary access easement is being proposed along the northerly side line of said lot to access the existing dwelling. He also offered that access could be obtained along the southerly side line of said lot. It was agreed that the recording of a temporary access easement will be a condition of any approval granted. Engineer Santowasso advised that there would be no impact on adjacent property owners if the existing driveway is abandoned. Discussion ensued regarding future development of the remaining lands based on the wetlands constraints existing on said property. It was noted that due to the constraints, any requests for future development would be subject to review by the applicable board/authority.

Engineer Decker related that the NJDOT permits received are subdivision permits and at such time as there is a design submitted, the NJDOT will retain jurisdiction for driveway access. Mr. Santowasso related that he has conferred with the County Health Department and the NJDEP and is awaiting a determination regarding the Hunterdon County Health Department's determination of artesian conditions. Engineer Decker recommended that any approvals granted by the Board should be conditioned upon receipt of Hunterdon County Health Department approval regarding soil suitability for primary and

reserve septic systems.

It was the finding of the Board that C(2) variance relief for buildable area would not be needed based on the fact that this is a pre-existing condition.

Motion was made by Fitting with a second by Sanzalone for approval of the minor subdivision conditioned upon the recording of a temporary access easement and receipt of Hunterdon County Health Department approval for proposed lot 12.01. Roll call: Fitting-aye, Sanzalone-aye, Fulper-aye, Dale-aye, Ashton (Alt. #1)-aye, Hoff (Alt. #2)-aye, Cronic-aye. Motion carried. Resolution of approval to be prepared for the next meeting.

CORRESPONDENCE:

Training Video for Volunteers – Secretary Griffiths related that five Board members viewed the training video for volunteers prior to this evening’s meeting. Confirmation will be sent to the Township Clerk.

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2010 Budget - A copy of the Board's budget for 2010 was received. It was noted that the Other Expenses (O.E.) line item was reduced to \$1300.00 and the Board secretary's salary is being reduced to \$4800.00.

PRESENTATION OF BILLS FOR PAYMENT:

The following bills were received:

Stewart Palilonis - \$435.50 – February 2010
\$600.00 – March 2010

NJN Publishing – \$19.94 – Myhre Escrow Account

NJLM - \$55.00 – Request for Quotes – Engineer

William Shurts, Esq. - \$405.00 – Kilmer Escrow Account

Motion was made by Sanzalone with a second by Fitting for the approval of the bills contingent upon certification of funds. Motion carried on roll call vote – all ayes.

DISCUSSION:

Request for Return of Escrow Funds – Motion was made by Fulper with a second by Sanzalone approving the release of escrow funds for the Myhre application in the amount of \$867.56. Motion carried on roll call vote - all ayes.

OPEN TO PUBLIC:

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

ADJOURNMENT:

All members voted in favor of adjournment at 8:38 PM.

Respectfully submitted,

Donna M. Griffiths
Secretary