

WEST AMWELL TOWNSHIP
ZONING BOARD OF ADJUSTMENT
Regular Meeting
July 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: Robert Fulper-present, Brian Fitting-present, David Sanzalone-present, John Dale-present, John Ashton (Alt. #1)-present, John Hoff (Alt. #2)-present, John Cronce-present.

Absent: Joseph Romano, Ruth Hall

Professionals Present: Stewart Palilonis, Board Attorney

PRESENTATION OF MINUTES:

Regular Meeting Minutes – July 27, 2010 – Secretary Griffiths noted correction to be made to the block and lot reference for the Gasparro application (amended to Block 11 Lot 5.33); suggestion was made for additional amendment to page 2, second paragraph, "...continuation of fence around the pool will consist of aluminum material". Motion was made by Ashton with a second by Fulper for approval of the minutes contingent upon the above-referenced amendments. Motion carried on roll call vote – all ayes; Fitting, Sanzalone, Dale – abstain.

RESOLUTION(S) OF APPROVAL:

Gasparro – Block 11 Lot 5.33 – Surrey Lane – Variance Request – Rear Yard Setback - Resolution as prepared by Attorney Palilonis was distributed. A copy was provided to the applicant prior to the meeting. Motion was made by Fulper

with a second by Hoff for approval of the resolution contingent upon correction of a minor

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typographical error. Roll call: Fulper-aye, Ashton (Alt. 1)-aye, Hoff (Alt.#2)-aye, Cronce-aye. Motion carried.

APPLICATION(S):

Continued Public Hearing: Rosenberg – Block 11 Lot 5.13 – Rose Run – Variance Request – Stream Corridor (7:40PM)

Applicant, Michael Rosenberg, of 24 Rose Run, was sworn in by Attorney Palilonis.

Stream Corridor Plan dated 7/14/10 as prepared by Goldenbaum Bailly for Block 11 Lot 5.13 was distributed in response to the Board's request at the prior meeting. Attorney Palilonis advised that all Board members present this evening would be eligible to hear the application due to the fact that the merits of the application were not discussed at the last meeting.

Mr. Rosenberg was asked to provide an overview of the plan presented relative to the proposed in-ground pool. He is seeking relief from the 75 ft. stream corridor setback requirement. He related that the plan depicts the stream corridor area on the property to include measurement to the top of bank in relation to the edge of the pool (27 ft). Mr. Rosenberg attested that there is no actual stream, the area fills in when it rains and then the water flows to the Alexauken Creek. In response to questioning, Mr. Rosenberg related that the septic system is also within the stream corridor setback as depicted on the plan. It was noted that the property was developed prior to the adoption of the stream corridor ordinance.

Attorney Palilonis informed the Board that the New Jersey Department of Environmental Protection (NJDEP) regulates setbacks from stream corridors as well as local municipalities. He indicated that municipalities can be more stringent than the NJDEP but he is unaware of anything in the Township's stream corridor ordinance that would require us to be more stringent. It was noted that pools are permitted by rule by the NJDEP. A copy of the NJDEP regulations relevant to permitting in-ground pools as distributed at the last meeting was referred to and summarized by Attorney Palilonis and Zoning Official Baldino, specifically, regulation relative to Category I streams (300 ft. setback). It was related that the top of the bank defines the stream corridor and the setback is calculated from there (300 ft. per NJDEP and 75 ft. per Township Ordinance in this case). The Township's ordinance pertaining to the permitting of certain structures within the setback was also referenced by Zoning Official Baldino. Mr. Rosenberg was advised that if he receives approval from the Board, he will need to comply with the NJDEP regulations governing this project.

In response to questioning, Mr. Rosenberg advised there will be no shed erected and the pool equipment will be located on the west side of the shed (outside of the 75 ft. stream corridor area). The NJDEP regulations state only certain activities are allowed and the installation of an in-ground pool is allowed. Mr. Rosenberg attested that the proposed

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pool and construction of same will not adversely affect the stream corridor. Photos of the area in question were presented. It was noted that the core of the stream corridor area is within a conservation easement but applicant attested there wouldn't be any disturbance in that area. The proposed fence will go around the area to minimize disturbance. He related there will be grading done within the corridor right to the stream bank but it won't disturb anything within the conservation easement; grading to go to edge of the tree line. Question was raised regarding the impact of filling in the low area. Applicant related he would be grading up to the pool and the area in question would consist of plantings/shrubs.

Mr. Rosenberg related the hardship situation whereas the pool can not be located anywhere outside the conservation easement. He advised that the pool can not be placed on the sides of the property noting that the core of the septic system is on one side and trucks are not permitted to go over the septic field. It was noted by the Board that the property is well consumed with the stream corridor area.

In response to questioning, Mr. Rosenberg attested that he has lived at the property for over four years, the water in the stream area has been minimal, and there have not been any problems with the septic during the wet weather. The rear of the property borders another residential lot same of which is both wooded and grassy in the rear area. The stream cuts across the Rosenberg lot and through two neighboring properties.

The floor was opened to the public for comments/questions. Hearing none, the floor was closed.

Motion was made by Fulper with a second by Sanzalone granting relief for the construction of the pool within the stream corridor due to the hardship created whereby the stream corridor consumes the lot, there is no other location to put the pool, and there is no significant impact to the corridor by the placement of the pool as proposed. Roll call: Fulper-aye, Fitting-aye, Sanzalone-aye, Dale-aye, Ashton (Alt. #1)-aye, Hoff (Alt. #2)-aye, Cronce-aye. Motion carried. Resolution to be prepared for August meeting. (Hearing concluded at 7:59PM).

Public Hearing: Somogyi – Block 33 Lot 6.01 – Brunswick Pike – Variance Request – Accessory Building/Structure (8:00 PM)

Application, checklist, marked up plan of survey dated 8/22/92 by Goldenbaum Baill, and Zoning Official denial dated 6/29/10 were received and distributed. It was noted that the zoning application was denied for failure to meet front yard setback and location of accessory building in front yard requirements. However, applicant is only seeking relief from the Board for placement of an accessory building in the front yard requirement.

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Proofs of publication and service were reviewed by Attorney Palilonis and found to be in order. Property owner, Robert Somogyi, 501 Brunswick Pike, Lambertville, NJ, and Sam Kenyon, Yardley, PA, representing Greening the House (filing application on behalf of the property owner) were sworn in by Attorney Palilonis.

Mr. Somogyi and Mr. Kenyon provided an overview of the proposed project. Mr. Somogyi related that a geo-thermal system was installed in his house in February by Greening the House. Since that time, suggestion has been made by Greening the House for the installation of solar power. Mr. Somogyi related his interest in pursuing this project in an effort to produce clean energy and possibly offsetting property taxes.

Mr. Kenyon related that the Somogyi's have been more advanced in "green" thinking prior to this proposed project. He related that the property is unique and the house is built on the side of a hill and in the ground. The home can not be seen as you drive down the driveway. The front of the home (driveway area - north side) is considered to be the front yard and the arrays would need to be placed in that area. He advised that geo-thermal has been in the home for 16 yrs. and has been recently upgraded for more efficiency.

Mr. Kenyon advised that the application was denied by the zoning official for failure to meet the 150 ft. front yard setback requirement as well as placement of an accessory structure in the front yard. He attested that the project has been revised and the applicant can now meet the 150 ft. front yard setback requirement, thus the only relief being sought is for the placement of the accessory structure in the front yard.

In response to questioning, Mr. Kenyon provided the specifications of the project: proposing ground mount solar panels, three feet above grade; 80 panels consisting of 40 on each array. There will be two separate ground mount systems; the system will be trenched to the home. The electric will go through the meter and to the panel box.; the meter is on the north side of the property and

the array needs to be as close to the source as possible. If the array was placed in the back yard, there would need to be considerably more digging which would be cost prohibitive to the property owner. Testimony was offered that the front yard (north side) has a clearer view of the sun year round and this location would provide for the most efficiency (101%). Other locations are blocked by vegetation and the terrain. The system is a 15 KW system with annual usage of 26 KW. The system is sized at 15 KW for economic reasons.

It was noted that there is a stream corridor in the back yard and the placement of the panels in that area would infringe upon the stream corridor area. Discussion ensued regarding the existence of the stream corridor on the property (in the back - south side), the impact on same if the arrays were located in the area, and whether the stream corridor area should be delineated on the map. Mr. Kenyon attested that the applicant does not want to infringe upon the stream corridor area. The panels would be approximately f

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1,000ft. away from the stream corridor area if approval is granted to place them in the front yard.

The floor was opened to the public for comments/questions:

Matt Lintott, neighboring property owner at Mt. Airy Harbourton Rd., Hopewell Township - Mr. Lintott related that he has no objection to the proposed project whereas he has a geo-thermal house also but needed clarification as to where the outbuilding would be located. Mr. Lintott was advised by the applicant that there would not be an outbuilding and the proposed placement of the arrays would not be seen from his property.

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

In response to further questioning, it was related that the sheds shown on the plan are no longer in existence; the septic is south of the house approximately 150 ft. down in the back and the well is off of the garage area approximately 50 ft. from same.

Applicant testified that the arrays will not be visible from County Route 518 whereas there are existing shrubs, specifically, multi-flora rose. He related that if the shrubs were not there, you would be able to see the arrays. Applicant advised that it is his intent to manage and retain the existing brush. He agreed that in the event the shrubs die, he will replant in order to provide a buffer.

Motion was made by Fulper with a second by Dale granting relief for front yard installation of the arrays based on the testimony that there will be a vegetation

buffering from the road. In the event the existing vegetation is removed or dies, applicant will plant two staggered rows of 4-6 ft. evergreen trees, on 10 ft. centers. Roll call: Fulper-aye, Fitting-aye, Sanzalone-aye, Dale-aye, Ashton (Alt. #1)-aye, Hoff (Alt. #2)-aye, Cronce-aye. Resolution memorializing the Board's approval will be prepared for the next meeting. (Hearing concluded 8:42 PM)

CORRESPONDENCE:

Request for nominations for the **Hunterdon County Planning Board Planning and Design Awards – 2010** was received.

Resignation of Board Secretary – Chairman Cronce apprised the Board of notification received from Donna Griffiths of her resignation from the position of Board Secretary.

Ms. Griffiths related that she will be resigning from the position due to another employment opportunity, however, she will remain on until such time as a replacement is found. Chairman Cronce related that Board member Ruth Hall may be interested in

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filling the position. Chairman Cronce will follow-up with Ms. Hall before any action is taken to fill the position.

PRESENTATION OF BILLS FOR PAYMENT:

The following bills were received:

Stewart Palilonis - \$325.00 (June meeting)

NJN Publishing - \$19.94 – (Mostofizadeh escrow)

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

DISCUSSION:

It was suggested that the zoning ordinance as it pertains to solar panels be reviewed.

The Board was advised that Environmental Commission Chair Cathy Urbanski will be attending the next meeting to address questions/comments by the Board on the stream corridor ordinance.

OPEN TO PUBLIC:

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

ADJOURNMENT:

Motion was made by Sanzalone with a second by Fulper to adjourn at 8:55 PM. All voted in favor of adjournment.

Respectfully submitted,

Donna M. Griffiths

Secretary