

WEST AMWELL TOWNSHIP
ZONING BOARD OF ADJUSTMENT
Regular Meeting
May 26, 2009

The West Amwell Township Zoning Board of Adjustment regular meeting was called to order at 7:32 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 30, 2009. 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.

OATH OF OFFICE – Antonio Motola – (Alt. #2 – unexp, term through 12/31/10)

Ms. Motola not present; administering of oath carried to the next meeting.

ATTENDANCE/ROLL CALL:

Roll call on attendance: Ruth Hall-present, Joseph Romano-present, David Sanzalone-present, Gary Langfelder-present, Joseph Rosina (Alt. #1)-present, John Cronce-present.

Absent: Brian Fitting, Robert Fulper, Antonia Motola (Alt. #2)

Professionals Present: Stewart Palilonis, Board Attorney

PRESENTATION OF MINUTES:

Regular Meeting Minutes – April 28, 2009 – Motion was made by Rosina with a second by Sanzalone for the approval of the minutes as presented. Motion carried on roll call vote – all ayes; Hall, Romano-abstain.

APPLICATION(S):

Public Hearing: Bob - Variance Request - Accessory Structure/Shed – Block 3 Lot 20.51 - Ferris Wheel Drive

(7:35PM)

Applicant, Jonathan Bob, 20 Ferris Wheel Drive, appeared before the Board. Board member Romano recused himself from the hearing (and room) as a neighboring property owner. Attorney Palilonis reviewed the proofs of notice and service finding same to be in order. Mr. Bob was sworn in by Attorney Palilonis.

Mr. Bob was offered the opportunity of carrying the public hearing to the next meeting due to the fact that there were only five eligible Board members present to hear the application. Mr. Bob requested to proceed with the hearing at this time.

Application, checklist, and survey plan (l/r/d 8/30/02) depicting the location of the proposed shed, were distributed. Also distributed was Zoning Official Baldino's denial letter (dated 4/7/09) for the installation of a shed (accessory structure) at a height of 18'9" (maximum height allowed 15 ft.).

Mr. Bob is requesting to erect an approximate 18 ft. x 20-22 ft. shed on the property for storage purposes. The additional height is being requested for a loft area in the shed to accommodate more storage.

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The shed is proposed to be behind the trees on the property and on the same side adjacent to the neighbor's pool cabana. It was noted that the application for zoning permit states the height proposed is 18'9", however, Mr. Bob advised that he is requesting relief of 19'9" or less in order to take into consideration foundation material (concrete). He will attempt to cut and fill as much as possible.

In response to questioning by the Board, Mr. Bob advised that he has looked at different manufactured sheds, however, he desires to have a barn-like structure with additional height for storage purposes. He indicated that while he would be able to construct a 15 ft. high shed, the proposed shed is more aesthetically pleasing and functional. The shed will be red with a grey shingled roof and will be used for the storage of lawn furniture, mowing equipment, etc. Mr. Bob attested that electric will be installed for internal lights and an outlet, there will be no toilet facility, and no living quarters. He advised that his property borders a farm and conservation easement area to the rear. He also indicated that he has discussed the construction of the shed with his neighboring property owners and they take no issue with same. In response to questioning, Mr. Bob attested that there will be no driveway to the structure and agreed this being a condition of any approval granted. The existing home is a two story dwelling with an attached, two car garage and similar to those in the neighborhood. The shed will be placed behind a knoll behind the septic at an elevation of two to five feet lower than street elevation.

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

It was noted that the application as presented addresses the negative criteria associated with the variance request whereby the structure will be set back well from the road, it will be adequately screened, the structure is not out of scale with adjacent structures, and there is no negative impact on the public. Motion was made by Sanzalone with a second by Hall to grant the variance for a maximum height of 19'9" with stipulation that there will be no driveway built to the structure, minimal electric will be installed, and the shed will be used for storage only. Roll call: Hall-aye, Sanzalone-aye, Langfelder-aye, Rosina (Alt. #1)-aye, Cronce-aye. Motion carried. Mr. Rosina noted that the ordinance requires a maximum height of 15 ft. in order to keep buildings in conformance with area structures but based on the testimony provided he agrees with the granting of the variance. Mr. Bob was advised that the resolution will be presented at the next meeting for approval consideration. He was also provided with information regarding the appeal process. (7:58 PM)

CORRESPONDENCE:

Copy of **Ordinance #18, 2009** – “An Ordinance to Amend Article XXXIV, Chapter 109 of the Code of West Amwell in Order to Address Requirements of the Council on Affordable Housing (COAH) Related to West Amwell's Substantive Certification of its Third Round Housing Element and Fair Share Plan” was distributed. Public hearing scheduled for June 17, 2009.

PRESENTATION OF BILLS FOR PAYMENT:

The following bill was received:

Stewart Palilonis - \$150.00 for April services.

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

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DISCUSSION:

Other:

Attorney Palilonis advised that he would not be available to attend the July meeting, but can arrange for a substitute attorney if need be. Consideration may be given to cancelling the July meeting.

OPEN TO PUBLIC:

The floor was opened to the public:

Thomas M. King Sr., 330 Mt. Airy Harbourton Rd., requested to speak to the Board in regard to water runoff problems being experienced on his property from a neighboring property owner (Vavrence – Block 13 Lot 62). A copy of Mr. King's e-mail dated 5/8//09 requesting to appear before the Board was distributed. Mr. King advised that he was referred to the Board by the Township Committee.

Chairman Cronce advised that Mr. King could present his concerns to the Board, however, discussion would be limited whereas the property owner in question was not present and the statute of limitations for appeal pertaining to the variance granted to the property in question has expired. The property owner in question (Vavrence) was issued a variance by the Board to construct a porch in October 2008.

Mr. King related his issue with the Vavrences who purchased the adjoining property in February of 2008 (according to Mr. King). Photographs of the property in question were distributed depicting the property in 2007 and 2009. Mr. King related that the 2007 photographs show the presence of a swale on the property and the 2009 photographs reflect the absence of the swale and the now existence of a driveway. Mr. King maintains that when the Vavrences submitted their application and plot plan to the Board, the driveway was not depicted on the plan. He advised that since the construction of the driveway and elimination of the swale, the water is flowing over onto his property and flooding both his property and house and the property behind his. Mr. King also alleged that the property owner did not provide proper notice to him of his application before the Board, did not apply for a driveway permit from the Hunterdon County Road Department, and did not apply for a soil permit as required by Township Ordinance. Mr. King expressed his opinion that since the property owner failed to include the driveway on the site plan, he misrepresented the project before the Board, and review by other applicable agencies was not followed through as should have been.

Copy of e-mail dated 5/20/09 from Zoning Official Baldino to Engineer Clerico was distributed. Contained in the e-mail was the opinion of the Zoning Official and Construction Official that there is no violation of Zoning Ordinance 109-184A(5) pertaining to "one driveway per residential lot" as alleged by Mr. King. The officials also rendered an opinion in the e-mail correspondence that the matter between Mr. King and Mr. Vavrence is that of a civil nature and not within their purview. In regard to whether there is a violation of Hunterdon County Soil Conservation District regulations, the officials referred the matter to the Township Engineer for follow-up as deemed

appropriate by the Township Engineer. It was noted that it was unknown whether the Township Engineer has forwarded the complaint to the Soil Conservation District.

A copy of the certified mail receipt addressed to Mr. King as included in the application file for the Vavrence application was provided by Board Secretary Griffiths. Attorney Palilonis advised that the MLUL only requires proof that the notice was mailed; not that it was received by the recipient.

Mr. King maintains that the facts presented at the variance hearing were not correct and questioned what recourse there was. He advised that he has made several attempts to

resolve the water runoff issue with the property owner to no avail.

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Suggestion was made for Mr. King to follow-up on his complaint with the Hunterdon County Soil Conservation District or to take civil action against the adjacent property owner for adversely affecting the drainage on his property. It was related by Attorney Palilonis and Chairman Cronicc that the Board has no ability to arbitrate the dispute between the property owners, and the statute of limitations for appeal purposes has expired. It was further related that at the time of the variance hearing, the Board acted on the facts presented under oath by the applicant and solely for an application to construct a porch. No formal site plan was required for the application presented, and the Board had no authority to render a decision relative to driveways or drainage.

ADJOURNMENT:

All voted in favor of adjournment at 8:54 PM.

Respectfully submitted,

Donna M. Griffiths
Secretary