

WEST AMWELL TOWNSHIP
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
February 25, 2014

The West Amwell Township Zoning Board of Adjustment regular meeting was called to order at 7:34PM 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 February 6, 2014. 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, Joe Romano-present, Ruth Hall-present, John Ashton-present, Rob Borden-present, Robert Fulper-present.

Borden left the meeting at 8:36 PM

Absent: Kevin Koveloski (ALT. #1), Frank Sabatino (ALT. #2)

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

PRESENTATION OF MINUTES:

Regular Meeting Minutes – January 28, 2014 – Motion was made by Cronce with a second by Borden to accept the minutes as presented. Roll call: Cronce-aye, Fitting-aye, Romano-aye, Hall-aye, Ashton-aye, Borden-aye, Fulper-abstain,

RESOLUTION(S) OF APPROVAL: none

APPLICATION(S):

Completeness/Public Hearing: Quick Chek Corporation – Block 11 Lot 28 – 45 Highway 31 & Harbourton Rd. – Sign Variance Request-LED (7:36 PM)

Henry Kent-Smith, attorney for the applicant, Quick Chek Corporation. Application, checklist, and plan titled “Preliminary and Final Site Plan; Sign Replacement Plan”, comprised of one sheet and prepared by Bohler Engineering, dated 1/3/2014, were received and distributed.

Attorney Palilonis suggested that the Board determine whether *res judicata* applies to this application; having heard and denied this application in 2011.

Mr. Kent-Smith suggested that what is currently being proposed compared to the 2011 application is considerably different. Adding that the monument location and difference in landscaping constitutes a substantial change from what the Board considered earlier.

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Chairman Fulper stated to the members, the Board can't rehear the same application a second time once it's been denied. Stating that the applicant applied to this board for multiple variances, including the free standing sign; which was denied. The question is whether they are presenting a different application from the one previously denied.

Attorney Palilonis added that it is the Board's job to find the facts to support the decision of whether or not a substantially different application is being presented.

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

Derek Jordan, Engineer - Bohler Engineering, 35 Technology Dr., Warren, NJ

James Ambrose, Allied Environmental Signage - Farmingdale, NJ

The applicant's professionals offered their credentials and testimony experience and were accepted as expert witnesses.

Mr. Jordan offered as Exhibit Q-1, "*Internally Illuminated Monument Sign*". Mr. Jordan stated that the previous design was a pole mounted pylon sign, meaning that it is lifted in the air with clearance underneath. Currently being proposed is a monument sign, the sign sits on the ground with a decorative brick base with landscaping around the base to enhance the aesthetics. This brings the height of the sign down so it doesn't look as much like a typical gas station sign that you see on a busy highway and brings to much more of a neighborhood sign for a rural residential area.

In response to Mr. Kent-Smith, Mr. Jordan agreed that the previously proposed sign was 15' in height and the currently proposed sign is 15' in height.

Offered as Exhibit Q-2, "*Preliminary and Final Site Plan; Sign Replacement Plan*", comprised of one sheet and prepared by Bohler Engineering, dated 1/3/2014.

James Ambrose responded to Mr. Kent-Smith regarding lighting variability, stating that the red LED gas prices have controls that effect the intensity of brightness for various conditions, bright sunny days, cloudy days, and dark of night. Rather than a constant light source as previously proposed, this sign operates on a sensor that can increase or decrease in light intensity as required.

Mr. Ambrose offered that the green logo color for Quick Chek is a translucent 3M film and meant to diffuse the light behind it, being the same as the previously proposed sign.

Mr. Kent-Smith offered that it is possible to install an LED system with variability control for gas pricing and background illumination so the variability control would affect both components of the sign. Adding that the monument location with landscaping is a substantial aesthetic enhancement. Suggesting that this meets many of the Board's prior concerns and suggests to proceed and discuss the substance of the application.

In response to Board member questioning regarding the previously proposed sign, Mr. Kent-Smith stated that the previously proposed sign was proposed on metal poles at the same height as the currently proposed sign, the LED and other controls were not variable as the sign proposed tonight.

Board member Cronce stated that the problem we have with the application is its being brought back for the same thing; returning for the LED lights, having been rejected on the previous application. Stating that sign location is not the problem, it is the LED lights that are the problem. Adding that our ordinance does not allow LED lights.

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Mr. Kent-Smith responded, saying that the current sign does not work, it does not fulfill the function of a sign, which is to notify the traveling public on Route 31 in sufficient visibility of distance of what is going on, what the gas price is. Adding, that it is unique to this particular location in all of this township, it is the only signalized intersection on Route 31 in all of West Amwell.

Mr. Cronce replied that it is the same application as previously voted on and denied for LED lights, so therefore this Board does not have the power to go any further on it.

Mr. Kent-Smith suggested that the Board hear the application and reconsider based on new facts whether or not this would warrant relief from the ordinance. Adding that they believe the proposed application will have tremendous benefits to the property, will look better, and function the way it should function.

Attorney Palilonis read the approved resolution (2011-08) conclusion regarding LED lighting. Board member Fitting added that he voted for the original application, adding that he doesn't feel this is substantially different than the original application. Suggesting the proposed application needs to be reworked, perhaps a compromise in the materials used to move toward meeting the ordinance.

Engineer Decker read sign ordinance 109-124: C- Prohibited Signs # 23-Intermittent Signs, 109-124: B - Definitions-Intermittent Sign, stating that it does address LED specifically.

Chairman Fulper asked for any additional questions/comments from the Board members. Hearing none, asked for a motion.

Motion was made by Cronce with a second by Hall under the provisions of *res judicata* this application is prohibited because the Board previously rejected for LED lighting.

Roll call: Cronce-aye, Fitting-aye, Romano-aye, Hall-aye, Ashton-aye, Borden-aye, Fulper-aye. Motion carried to deny hearing of application. (8:10 PM)

Board member comments – Fitting – stating that he voted for the application initially but because it hasn't changed substantially from the previous application and with some minor adjustments it could be, he is voting aye.

Ashton stated that he echoed Fitting's comments and voted aye also.

Fulper stated that he reflects Fittings feeling's, also voting aye.

Palilonis stated for the record all notices were in order.

Completeness/Public Hearing: James and Jean Vernor – Block 23 Lot 1 – 16 Mill Rd.

Bulk variances request for pergola, pool pump house, bridge, porch. (8:12 PM)

Application, checklist, and plan titled "*Variance & Plot Plan, Brookmill Farm*" comprised of one sheet and prepared by Hopewell Valley Engineering, PC dated February 10, 2014, "*Topographic Survey, Brookmill Farm*" comprised of one sheet and prepared by Hopewell Valley Engineering, PC dated February 10, 2014, were received and distributed.

Henry Chou, attorney for the applicant, appeared on behalf of the applicant, James and Jean Vernor the application is for C bulk variances associated with a repair of a bridge that Mr. Vernor did, as well as the repair of a pool pump house. As well as an addition and some repairs that were done to his home. Stating that these were done in the aftermath of Hurricane Irene, which washed away the bridge and damaged the pool house, adding that Mr. Vernor was unaware that Land Use approvals and building permits were necessary to do the work. Mr. Vernor was cited last year for doing the work without permits.

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Mr. Chou stated the work that was done is within the 75' stream buffer according to the West Amwell Land Development Ordinance, adding that DEP also has their own stream buffer associated with state regulations. Adding that they did meet with DEP on Dec 4, 2013 for a pre application meeting and were advised to file a *flood hazard area individual permit* as well as *fresh water wetlands general permit 10*. They were advised that they should have no problem associated with the application and it should be granted as a matter of routine. Stating that they plan on filing the application shortly after obtaining necessary approvals from this Board.

Proofs of publication and service were reviewed by Attorney Palilonis and found to be inadequate. Attorney Palilonis stated that Proof of Notice is inadequate due to description used in notice; type of variance requested is not clear.

Discussion regarding a completeness review by Mr. Decker ensued, Mr. Decker offered that additional information regarding what was there prior to the renovations/new construction is required before a review can be completed.

Board members stated that if Mr. Palilonis is suggesting the Board not hear the application based on inadequate notice, the Board should take the advisement of the attorney and not hear the application.

Board member Ashton suggested that we hear the case for completeness. Mr. Decker verified that the application is complete, working off of the Zoning Board Checklist; not a site plan approval, which isn't being requested at this time. Adding that item # 3 of the checklist pops out, stating this is a unique situation because this is after the fact, we don't have the existing structures anymore.

Not knowing if the owner has any type of documentation that locates what the extent of the porch was before and if there are any architectural plans that show that or the extent of the pump house, or the bridge. Stating that it's a difficult situation, typically if you come in with something proposed you're showing what already exists, in this case what existed is not there anymore. Adding that in his opinion the Board does need to have some additional information in relation to this to see what was there.

Mr. Palilonis questioned what the relevance was, Mr. Decker responded, the Board may consider if taken out by a storm and replacing in-kind as being a replacement, however, if the pump house was a 5x5 shed with the pump in it and now looking at a two-story structure. Mr. Palilonis disagreed, stating they are asking for variance relief.

Mr. Decker stated, typically we would have an architectural plan with dimensions on it, we don't have any type of plan showing dimensions or what the building functions as. In addition to the three variances that have been identified, there are other structures that don't comply. There is a garage within the stream corridor, there are other features that may not have been replaced due to the storm but would be identified as existing non-conforming.

Engineer Decker offered that we would need the dimensions for the bridge, especially since it is a covered bridge, adding that we will need to look at how it falls into the definition of a building and structure and if that has height requirements.

Chairman Fulper offered that we have to get a snapshot of what is on the property today, adding that they are backing into the application, rather than providing the information prior to performing the work. Zoning/Construction Official Rose offered that detailed plans will be required to obtain construction permits.

Chairman Fulper stated that after discussion the applicant is aware of what is required for completeness.

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Motion was made by Fitting with a second by Romano to deem the public notice inadequate and unable to proceed with the public hearing.

Roll call: Cronicc-aye, Fitting-aye, Romano-aye, Hall-aye, Ashton-aye, Fulper-aye. Motion carried to deny hearing of application. (8:49 PM)

CORRESPONDENCE: NONE

Approval of Bill List 2/28/14:

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

DISCUSSION:

Discussion continued from the February meeting regarding a laptop for the secretary. Secretary Hall reported that she contacted Brian at JWS Computer Repairs regarding VPN access. Brian offered that VPN could turn out to be a more costly way to accomplish our goal and have security issues, adding that we are not currently setup for this type of remote access. JWS provided a quote on two Dell laptops, \$499. & \$799. Secretary Hall also contacted CFO Tom Carro, Tom stated that two quotes are not necessary for purchases under \$2800. Adding that JWS is the vendor that the township currently uses for computer related needs. Tom offered that the Zoning Board budget had not been reviewed yet and should be resubmitted with a revision indicating \$1000 additional to cover the laptop cost.

Discussion among members resulted in approval to submit a revised budget and approval to purchase from JWS a laptop for \$799. for secretary use.

OPEN TO PUBLIC:

The floor was opened to the public. Hearing no comments/questions, the floor was closed. (9:00PM)

ADJOURNMENT:

A motion by Fitting, seconded by Cronicc to adjourn was unanimously approved by voice vote (9:00PM)

Respectfully submitted,

Ruth J. Hall