

WEST AMWELL TOWNSHIP
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
August 23, 2016

The West Amwell Township Zoning Board of Adjustment regular meeting was called to order at 7:37 PM 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 transmitted to the Hunterdon County Democrat and Trenton Times on February 4, 2016. 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.

APPOINTMENTS/OATH OF OFFICE:

None

ATTENDANCE/ROLL CALL:

Roll call on attendance: John Cronce-present, Joe Romano-present, Ruth Hall present, John Ashton-present, Kevin Koveloski-present, Frank Sabatino (*alt. #1*)-present, George Fisher (*alt.#2*)-present, Robert Fulper-present

Absent: Brian Fitting

Professionals Present: Stewart Palilonis, Board Attorney; Robert Martucci, Board Engineer; Jim Kyle, Board Planner

PRESENTATION OF MINUTES:

Meeting Minutes – July 26, 2016 – Carried to September

RESOLUTION(S) OF APPROVAL:

John & Dottie Polak - Block 22 Lot 11.01 - 383 Rock Road East -

Motion was made by Cronce with a second by Ashton to accept the resolution as presented. Roll call: Cronce-aye, Romano-aye, Hall-aye, Ashton-aye, Koveloski-aye, Fulper-aye

APPLICATION(S):

Chairman Fulper notified the public that the A-Z Venue Management (Brookmill Farm) application to be carried to the September 27 meeting

Completeness Determination/Public Hearing: Vernor/Lubchansky (A-Z Venue Management, LLC) – Block 11 Lot 28 – 16 Mill Road – Conditional Use variance Carried

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Public Hearing: 1872 River Road, LLC (The Generals Retreat) – Block 26 Lot 17 - Use and Bulk Variance Application/Site Plan Application (7:40 PM)

Application, checklist, March 4, 2016 submission letter, Storm Water Design and Storm Sewer Report dated February 26, 2016 prepared by Bayer-Risse Engineering, Storm Water Operations and Maintenance Manual dated February 29, 2016 prepared by Bayer-Risse Engineering, Plan set titled "Preliminary Site Plan Application dated February 26, 2016 prepared by Bayer-Risse Engineering consisting of 13 sheets, Architectural plan set prepared by Gelman Architecture, LLC dated March 6, 2016 consisting of 17 sheets, Letter dated January 26, 2016 from Eastern States Environmental Associates, Inc. to NJDEP for Freshwater Wetland LOI, Letter dated January 26, 2016 from Eastern States Environmental Associates, Inc. to NJDEP submitting application for a Statewide General Wetlands Permit #6, Development Review Application to Hunterdon County Planning Board, Application for Soil Erosion and Sediment Control plan Certification to Hunterdon County Soil Conservation District dated February 29, 2016, were received and previously distributed.

Additional material(s) received on April 26, 2016 consisted of; Letter from Bayer-Risse Engineering dated April 25, 2016 addressing March 21, 2016 completeness review by Tom Decker, Engineer, Plan set titled "Preliminary & Final Site Plan dated April 16, 2016 prepared by Bayer-Risse Engineering consisting of 17 sheets, Property survey prepared by Heritage Consulting Engineers dated November 12, 2014, Daily Sewage Volume, Soil Removal Calculations, Square Footage Calculations, 12 color photographs of project site, and were added to the block and lot file.

Guliet Hirsch, attorney for the applicant, appeared on behalf of the applicant, 1872 Rive Road LLC, (The Generals Retreat). Ms. Hirsch confirmed those board members present, having been present or read the transcript from the May 24, 2016 hearing.

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

Charles McGroarty, Banish Assoc. – 111 Main St., Flemington, NJ.

Ms. Hirsch stated we have many plan revisions since the May 24, 2016 hearing. Revisions responding to both the engineer and planners comment letters and also the fire chief.

Ms. Hirsch noted that in the notice, an incorrect lot was published, stating that a new notice was published for this evenings meeting, providing an affidavit of service,

Ms. Hirsch stated that Mr. Bayer made revisions to the plans and met with the fire official, adding that an unusual site improvement is now included, a 30,000 gal underground water storage tank for firefighting purposes, this is in addition to the 3,000 gal tank that will provide the site for sprinklers in the building. There is also a pool on the site and the D&R canal.

Witness #1 – Theodore Bayer – Engineer, acknowledged he was still under oath. Mr. Bayer stated he met with Fire Chief Ent and Fire Official Langdon, stating that their biggest concerns was a fire lane access on the east side behind the building, the opportunity for the fire chief to draft water out of the tank to fight a fire with the pumper truck, and the fire official it was a source of water to the sprinklers; for sprinkling the building. The revisions to the plan now include, the removal of the ADA parking spots and a couple other parking spots from the south side of the building; relocating to the northwest corner of the building. Still having one ADA compliant parking spot and the same overall parking spots.

Mr. Bayer offered as *Exhibit G-13 Preliminary and Final Site Plan consisting of 16 sheets revision date August 8, 2016*. Stating the basic site layout remains the same with access off Old River Road, the driveway coming in on the west side of the building. The loading zone was removed per the ordinance,

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the ADA parking and several other spots were relocated to the west side of the building, adding they are now proposing a 20ft wide fire access lane on the east side of the building. That will be constructed of pavers; a paver walkway that is 8ft wide, with grass pavers 6ft wide outward of that on either side. That width will give the ladder truck the opportunity to have a solid surface to extend their outriggers for fighting the fire.

The 30,000 gal underground storage tank, for drafting purposes, is located to the east of that fire access lane, that underground tank has fire department connections near the driveway entrance.

For the sprinkler supply, a sufficient elevation difference was needed between the 3,000 gal tank and the fire pump located in the basement of the building. The 30,000 tank couldn't be located far enough up the hill to get the required pressure, so separate tanks was decided on. Up the hill, near the pool is the 3000 gal tank that will supply the sprinklers in the building. Both tanks are plumbed to fire department connections.

The dumpster enclosures, recycling containers and the underground propane tank were relocated to the east, close to concrete spillway, the loading area will be in the same vicinity. If a fire breaks out and a delivery truck is there, a ladder truck can still get to the back of the hotel to fight the fire.

The entranceway coming off Rt. 29 was re-designed to accommodate the longest turning radius of the ladder truck, allowing access to the back of the building on the fire access lane or to the front of the building.

Mr. Bayer stated those were the major layout changes, adding that the septic tanks, grease traps and pump tank associated with the septic system couldn't be located below the fire access lane. Stating these were moved to the west side of the building between the driveway and the retaining wall.

Adding, when the septic tanks were moved it required the underground detention structure to be reconfigured. Previously a single 6ft diameter underground vault, 200ft long, was included. The redesigned plan shows two-6ft diameter underground vaults, 100ft long.

A vortex type solids removal unit was added in the driveway, providing for suspended solids removal. The storm water report is currently being worked on and will be submitted upon its completion.

Mr. Bayer offered that all other site issues have been addressed by reworking of the entrance way.

Chairman Fulper opened the floor for comments/questions of the applicant's professional: Hearing none, the floor was closed for comments/questions (7:55 PM)

Engineer Robert Martucci of Van Cleef Engineering was present on behalf of the Board. Engineering Review letter dated August 16, 2016, was received and distributed. Engineer Martucci related Mr. Bayer touched base on everything in the comments review letter. Adding that the storm water management calculations that are part of the review letter will be addressed and delivered to Mr. Decker. Mr. Martucci added that there are two easements associated with adjoining lots and intake pipes that require addressing.

Mr. Bayer addressed the easements as, lot 29 to the north currently has a storm sewer inlet that collects water on that property and discharges through a pipe on the Generals Retreat property. Engineer Decker

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requested an easement be granted allowing that storm water to happen. Mr. Bayer agreed, it is an existing condition and the owner does not have a problem with the easement.

Mr. Bayer stated they are widening Old River Road, as part of that widening they are eliminating the existing road side ditch, replacing with an 18" diameter storm water pipe that travels down the south side of Old River Road.

With regards to comment item #6, Michael Ehrenreich – applicant/owner – 1872 River Road stated, they don't anticipate events, with any frequency that would be larger than the onsite parking capabilities. Adding that it could happen from time to time, and in those instances off-site arrangements would be secured. Most events would be within the size that the facility was designed for.

Mr. Bayer addressed review comment item #36 and #37 referring to lighting, stating LED strip lighting is being proposed on the sign, to eliminate up-lighting and glare concerns. At the north end of the property, the monument sign is approx. 10' above the elevation of Route 29. Offered as *Exhibit G-14 Conceptual Layout of LED Lighting*.

Responding to Board questions, Mr. Bayer stated that the vortex unit would be maintained by the applicant. Another requirement of the storm water aspect of the project is a storm water and operations manual, as submitted with the application.

Discussion ensued regarding maintenance of the vortex unit, concerns rising over who is responsible for the inspection. Ms. Hirsch suggested an escrow account be established to cover maintenance and inspection.

Mr. Ehrenreich stated they would be hiring a company to maintain this system, the same as a home owner hires someone to pump their septic system.

Ms. Hirsch stated the applicant would be willing to provide the escrow, although not required to do so, for the inspection. Planner Kyle suggested an annual escrow amount of \$700.00 seemed reasonable, to re-evaluate after the first year.

Mr. Martucci referred back to the comments, stating item #26 through #31 to be provided as condition of approval.

All outside agency approvals as outlined in the review letter.

Planner Kyle referred to Preliminary and Final Site Plan letter dated May 18, 2016 prepared by Kyle Planning & Design

Mr. Kyle referred to *Site Plan and Design Comments*, item #2, stating *Exhibit G-15* shows the dimensions, adding the item has been met. Item #4 requires a waiver for landscaping, not meeting the 5% requirement.

Board member Cronic questioned how the hours of operation were determined, 8am -10pm. asking if the owner wanted to go longer. The owner stated this was a rough guide for planning purposes, it could be til 11pm if the noise considerations allows. Stating they are not at the level of operational planning of the restaurant to tell the exact hours. Stating they will be open the hours that a normal restaurant in this area will be open, certainly not later than a typical restaurant. Mr. Cronic suggested that some restaurants are open to 11pm, some are open later, stating he wanted to make sure the applicant was ok with the hours.

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In response to Board member questions regarding landscaping, Mr. Bayer stated there is a significant amount of proposed landscaping to the north of the property, specifically in the five-foot area between the face of the curb and the property line, and along the entire north side of the parking spaces themselves. A low hedge, American Boxwoods are being proposed, technically not in the parking area itself. A lot of plantings are proposed around the signage, while preserving the existing pine trees. Also proposing additional landscaping in the back garden. A lot of landscaping for aesthetic purposes is being proposed, requesting a waiver from providing 5% of the parking area landscaping within the parking area would be overkill, and additionally it would make it very difficult in order to comply with the actual number of parking spaces required.

In response to member questioning, Mr. Kyle stated the landscaping is being provided on the exterior, not the interior as required by the standard.

A motion by Cronce seconded by Koveloski to grant relief from the landscaping requirement of internal 5%. Cronce-aye, Romano-aye, Hall-aye, Ashton-aye, Koveloski-aye, Sabatino (*alt. #1*)-aye, Fulper-aye. Resolution of approval to be prepared for the next meeting. (8:38 PM)

A motion by Ashton seconded by Cronce to grant a waiver from the parking setback requirements Cronce-aye, Romano-aye, Hall-aye, Ashton-aye, Koveloski-aye, Sabatino (*alt. #1*)-aye, Fulper-aye. Motion carried. Resolution of approval to be prepared for the next meeting. (8:40 PM)

Witness #2 - Mr. McGroarty, P.P - Mr. McGroarty offered his credentials and testimony experience and was accepted as an expert witness. Mr. McGroarty provided as *Exhibit G-16*, Excerpts from the townships 2003 Master Plan and 2012 Master Plan.

Mr. McGroarty stated they have six variances to address, the purpose in the number of variance they have is to preserve the existing building as well as to add to it, and re-purpose the barn that is on site for a limited retail use, which is associated as an accessory use to the hotel.

Mr. McGroarty provided reference to the 2003 and 2012 Master Plan stating the standards and regulations emphasizes the concern to preserve and protect the historic character of the township. Historic features should be retained and integrated into new development.

Mr. McGroarty opined this application furthers the objectives of the Master Plan. Adding that the application will not have any substantial detriment to the Master Plan or zoning regulations.

Mr. McGroarty stated the first variance is a D-3 variance, stating they are a conditional use; a hotel in the HC zone. There are six standards to be met, adding they meet four of the standards. The lot requirement is 10 acres, with an existing lot size of 7.36 acres. Buildings must be set back a minimum of 100ft from exterior property lines; the existing residential structure is within the required setback, it does not comply with requirements. Mr. McGroarty stated the *Coventry Square case* in New Jersey is the standard that applies.

Mr. McGroarty added that a small area, 322sf within the existing barn would be used for retail space, an accessory use to the hotel. The design accommodates the hotel.

Mr. McGroarty added that one of the important issues of the design of the site is that the sub-surface septic system can accommodate the ten-room hotel, the small dining area, plus the retail space.

Mr. McGroarty stated with regard to parking they have twenty six parking spaces, with no interior landscaping, they maintain twenty six parking spaces for the hotel. They have nine parking spaces for

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eighteen seat dining area and two parking spaces for retail space, therefore not deviating from ordinance standards for parking.

Mr. McGroarty opined with regards to the negative criteria, there is no adverse impact to the public good. The property to the north is commercial in nature; the antique shop. The property to the east, owned by DEP is preserved. The other properties to the south, which are residential in character, opining, are in very good harmony with this site because of the low intensity use that is being proposed.

Mr. McGroarty stated of the various permitted uses that could be proposed in the HC zone, this is a very good fit, not having an adverse effect on neighboring properties. Opining that it will not impair the intent and purpose of the Master Plan and Zoning Ordinance, stating that it furthers the objectives.

Mr. McGroarty stated the next variance is the existing barn as an accessory structure. The ordinance limits the height of an accessory structure to 15ft. The barn is a one and one-half story structure that rises to a total height of 25ft. The proposal is to use a small area of the ground floor, 322ft, for retail, the remaining ground floor will be used for storage and the loft will be used for storage.

The same ordinance limits an accessory structure to 500sf, stating they are applying for the variance to deviate from the 500sf limit, adding that the ground floor of the barn is approximately 769sf. Existing conditions qualify for a C-1 hardship variance by virtue of the existing building.

Opining that there is no adverse impact to the public or the townships Master Plan and Zoning Ordinance by this deviation to sanction the existing barn with a variance.

Stating the third bulk variance is for minimum buildable area, adding the ordinance requires in non-residential zones and specifically for HC zone, that there be one acre of buildable area free of environmental constraints. The proposed location is at 9/10 of an acre. Stating the criteria is met under the C-1 hardship because those are the conditions that exist on the property, adding that they can't go further into the front, and can't go into the back or to the east, because that is where it becomes steep and wooded and would have an adverse effect on the rural character of the property. Stating 9/10 of an acre works fine for what is proposed, a ten-room hotel and small facilities that are accessory uses, parking, septic system and the storm water management facilities. To the back there is a small pool and walking area.

Mr. McGroarty opined in this case it furthers the purpose of the Zoning Ordinance and has no adverse impact to the public as the general good, and will not undermine the integrity of the purpose of having that minimum buildable area in the ordinance.

Mr. McGroarty provided an overview of the fourth variance being requested, slope disturbance, stating some of the land is within the 15-20% and 20-25% and in the 25% and greater slope area. Stating this is going to occur in the confines of where the site is already disturbed. And somewhat to the front where the parking will go. And to a limited extent to the back to facilitate a walkway to the pool. With the storm water management devises that are provide, the grading plan that's been designed and proposed, landscaping will mitigate any potential adverse impact.

Mr. McGroarty stated the next variance, for signs, qualify as a C-2 type variance. Referencing 109-24 of the township ordinance. Stating the project proposes three free-standing signs, whereas the ordinance allows for one. The three signs consists of two monument signs which are on the north and south edges of the property. As previously testified to, these two monument signs will alert motorist traveling north and south as to the location of the facility. Stating the key issue is to alert the motorist where to turn,

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promoting traffic safety. The third sign is the directional sign, visible to those entering the site, for internal directional purposes.

Adding that the second deviation is the setbacks, stating that setbacks to Route 29 and Old River Road are closer to the street right-of-way but not the street itself, then the ordinance permits. Adding that the signs are at a higher elevation than the road itself, stating their location is such that they need to be close to the road so people driving north and south can see them, set back too far defeats the purpose.

The third deviation is the sign area of wall signs. The total amount of permitted wall signage is 24sf. The existing building and proposed addition will have two relatively small signs on them totaling 39sf. For aesthetic reasons the signs are a bit larger and primarily visible only to those on the property, and will not be lit.

The last deviation from the sign regulations is the dimension of the wall sign. On the addition, which will be 40ft in height, the wall sign will be 4ft high. The lettering will say "General's Retreat" complies with the ordinance standard which is 2ft in height, but the back ground is 4ft.

Mr. McGroarty opined it is absolutely proportional to the building. It is a perfect fit, beautifully designed sign package. It complements the historic character of the property.

Mr. McGroarty stated the last variance is the disturbance within the stream corridor. Adding that the D&R Canal is defined as a stream, as such it requires 150ft stream buffer. Stating that the property is to the east of the canal, across Route 29. Classifying the variance as a C-1 and requesting relief from the full measure of stream encroachment corridor mitigation measures. Adding there is an exceptional situation, i.e. the interruption of the stream corridor by the road, Route 29.

The proposal as presented will not cause any disturbance to the existing stream corridor to the east side of the canal; albeit a very narrow strip. Adding that D&R Canal commission will be reviewing this plan as well.

Board member Fisher questioned the parking area elevation, in response, Mr. McGroarty stated the 74ft contour passes through center of the two parking aisles, and the existing 74ft run down the center of the driveway also. Essentially flattening it out a bit, not raising it, not lowering, just sculpting it. In response, stating the highest point of the retaining wall is 6ft.

Board member Ashton asked, with regards to the sign and setbacks, if the site triangle is reviewed by DOT. Making sure the view down the road wasn't going to be obstructed. In response, the sign is not within the site triangle.

Chairman Fulper opened the floor for comments/questions of the applicant's professional: Hearing none, the floor was closed for comments/questions (9:14 PM)

(9:16 P.M.) See attached partial transcript dated August 23, 2016, prepared by Denise C. Clark, Certified Court Reporter, Rizman Rappaport Livingston, NJ - present on behalf of the applicant 1872 River Road, LLC (9:43 P.M.)

Chairman Fulper related that there would be a brief recess at this time – Meeting recessed 9:42 PM – 9:50PM)

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Completeness Determination/Public Hearing: – Paul King – Block 32 Lot 19 -30 Barry Road – Accessory Apartment (9:44 P.M.)

Application and checklist were previously received and distributed

Chairman Fulper announced the application was being continued from the July meeting, notices were previously reviewed and found to be in order. The witnesses were sworn in and remain under oath.

Mr. King provided copies of the septic plan, stating he had the new septic design include the space above the garage.

Mr. King stated the new design was created for a five bedroom, being approved for a four bedroom. Secretary Hall stated a packet from the Construction Office was distributed, providing a history for the garage.

Mr. Cronce confirmed that the property was purchased with the existing garage. Mr. King testified that the previous owner constructed the garage.

Mr. Cronce asked what the intended use is for the garage, Ms. Huebner stated it is intended for family only.

Attorney Palilonis asked if they intend on renting the garage out, Mr. King stated absolutely not, it is for family use only; when relatives come to visit.

Board discussion ensued regarding deed restrictions, accessory apartments, and enforcement.

Chairman Fulper asked if there is a kitchen and bathroom in the garage space, in response, Mr. King stated there is a living room, bedroom, kitchen, and bathroom.

Mr. King stated he would like to use it for family and thought it would fit within the mother-daughter definition. Chairman Fulper stated the applicant needs to decide what they want and present the facts to the Board.

Mr. King stated he would prepare and requested to carry to the September meeting.

Chairman Fulper notified the public that the King application will be carried to the next meeting with no additional notice necessary. (10:30 P.M.)

Completeness Determination/Public Hearing: – Ken & Caroline Smith Block 30 Lot 10.01 – 639 Brunswick Pike - Conditional Use and Bulk Variance Application – Carried

Board took no action. Applicant requested to be carried to September 27, 2016 meeting

Completeness Determination/Public Hearing: – Joseph & Denise D'Agostino Block 8 Lot 52.02 – 1410 Hwy 179 – Conditional Use variance (10:32P.M.)

Notices of service and publication were reviewed by Attorney Palilonis and found to be in order.

A motion by Cronce seconded by Koveloski to deem application complete. Cronce-aye, Romano-aye, Hall-aye, Ashton-aye, Koveloski-aye, Sabatino (*alt. #1*)-aye, Fulper-aye. (10:35 P.M.)

Chairman Fulper notified the public that the D'Agostino application will be carried to the next meeting with no additional notice necessary

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CORRESPONDENCE:

The following items were received and distributed as correspondence:

Attorney Winget, by email dated August 1, 2016 re: **Mostofizdeh - Blk 21 Lot 12** requested a one-year extension of any approvals already granted for the above block and lot project from 2010. The Board requested the project professionals appear before the Board with updated project plans. Secretary Hall to contact Attorney Winget.

Code Book supplements were distributed

July/August Planner

Approval of Bill List 8/23/16:

A motion by Cronic seconded by Ashton to approve the vouchers for payment as listed on the 8/23/16 bill list was unanimously approved by voice vote – all ayes.

DISCUSSION:

Secretary Hall advised that she received her re-certification for Planning/Zoning Secretary, good for another 5 years through 2021. Advising that she will need to obtain 15 continuing education credits within that time period.

OPEN TO PUBLIC:

The floor was opened to the public. Hearing no comments/questions, the floor was closed. (10:49 P.M.)

ADJOURNMENT:

All members voted in favor of adjournment at 10:49 P.M.

Respectfully submitted,

Ruth J. Hall