

**Board of Adjustment  
Minutes  
May 25, 2004**

In the absence of Chairman Eller at the beginning of the meeting, Temporary Chairman Hurley opened up the meeting and declared that a quorum was present to conduct the meeting in accordance with the 'Open Public Meetings Law.'

Roll Call: Hurley, Schlader, Semonche, Woykowski, Mangiacotti & Eller (Arrived at approximately 8:10 PM) – 6 Present.

Absent: Post and Nienstedt – 2 Absent.

Also Present: Stuart Ours, Esq., Board Attorney  
Linda L. Hendershot, Clerk

Temporary Chairman Hurley led everyone in the flag salute.

**MINUTES:**

Chairman Eller arrived during the flag salute.

Chairmen Eller entertained additions or corrections to the minutes of the regular meeting held April 27, 2004.

Hearing none, it was moved by Semonche, seconded by Schlader that the minutes of the April 27, 2004 be approved as presented.

Roll Call: Hurley, Eller, Schlader, Semonche, Woykowski and Mangiacotti.

Ayes: 6, Nays: 0.

Motion carried.

**RESOLUTIONS:**

**Case #2004:3 – NORWESCAP (Head Start), 2 Pohatcong Ave.**

It was moved by Schlader, seconded by Hurley that the site plan be adopted as approved at the April meeting for NORWESCAP Head Start's construction of a modular building.

Roll Call: Mangiacotti, Hurley, Woykowski, Schlader and Eller – Ayes: 5,  
Nays: 0. Abstained: Semonche.

Motion carried.

**Case #2004:4 – Richard & Sara Monus, 53 Lambert St.**

It was moved by Hurley, seconded by Schlader that this variance be adopted as approved by the Board at the April meeting granting permission to construct a covered deck.

Roll Call: Woykowski, Hurley, Semonche, Schlader, Eller and Mangiacotti.

Ayes: 6, Nays: 0.  
Motion carried.

Chairman Eller deviated from the order of business to discuss **Case #2004:7 – Francis & Patricia D'Astoli, 284 Belvidere Avenue.**

Attorney Ours noted that the affidavit of publication was defective because Mr. D'Astoli had failed to place in the ad what he was applying for. His notices to the property owners were in order. Mr. Ours recommended that the Board continue this case until the next meeting by announcing to the public that if anyone was interested in the case they would have to appear at the June 22<sup>nd</sup> meeting. The applicant shall re-advertise his notice in the Star Gazette in compliance with the law.

It was agreed to table this case until the June meeting and that anyone in the audience interested in the case be so informed and that the applicant will be readvertising for the June 22<sup>nd</sup> meeting.

**OLD BUSINESS:**

**Case #2004:5 – L.J. Associates, LLA, 100 Van Buren Street, Washington, NJ, Blk. 56, Lot 2** (Represented by Alan Lowcher, Esq.)

This application was tabled from the April meeting agenda. The application is being filed for the purpose of continuing a single family use on this property and converting an existing structure on the same property as a delicatessen.

In the Zoning Officer's Refusal of Permit this request was denied for non-compliance with the provisions of Section(s) 94-73.3 of the Municipal Zoning Ordinance for the following reasons: No lot shall be erected on it more than one (1) permitted principal use or one principal building.

Attorney Ours reviewed the notices of service and affidavit of publication and found the application to be in order to proceed.

Attorney Lowcher introduced their Planner, Robert Kren and the owner of the property, Mr. Seyed Rasoulinejad. Both were administered the Oath by Attorney Stuart Ours, Esq. for testimony.

Attorney Lowcher entertained testimony from Mr. Kren. Mr. Kren recited his education and experience for the Board. The survey of the property was entered into evidence as A-1 which was prepared by George Sniffin, Land Surveyor. Exhibit A-2 was a conceptual plan prepared by Biggs Engineering.

Attorney Lowcher that this was going to be a two step process wherein he was going to apply for the Use Variance, then a site plan would follow if the Board entertained approval of the Use Variance. He indicated that it was very similar to the Fischer variance and site plan recently granted by the Board.

Mr. Kren described the property for the Board. The lot consists of a two story frame house with a concrete garage on the property. The garage is an eye sore and has not been utilized for a garage in some time. They would like to retain the residential use but turn the garage over into a delicatessen.

This property is in a B-1 business zone; however, because of the residential use, no more than one principal use can be permitted on this lot.

Additional variances might be required during the site plan process.

The planner testified that the site could function with the two uses. The ingress and egress would be entering on Van Buren and existing out onto Adams Street. The size of the property consists of about 800' Square Feet. Eight (8) parking spaces are being proposed, wherein only six (6) parking spaces are mandated. Landscaping proposed in the rear of the garage and a 6' foot high board on board fence. White pine trees are proposed on Rt. 31 and the parking area. The existing black-topped area would be restored to grassy area.

Mr. Rasoulinejad testified that the garage is an eyesore. He wanted to convert it into a mini-deli to serve the neighborhood.

Special reasons must be found to grant this use variance to enhance the neighborhood. The use cannot impair the intent and purpose of the zone plan nor can it be a detriment to the public good.

The Board members asked some questions of the applicant.

Board member Woykowski questioned the use of delivery trucks to this site and where the dumpster would be located for disposal of garage.

Board Attorney Ours questioned compatibility issues, given there is a residence on this site. If there were children there would not be much space left for their recreational needs and their safety?

Board member Semonche noted that if he was going to consider a use variance he wanted to know what it is and where exactly everything they asking for would fit on this parcel of land?

The applicant testified that the deli would consist of approximately 600 Sq. Ft. and would serve bagels, coffee, sandwiches, soda, ice cream, etc. Deliveries would be early morning and would most probably be a small van of some type. Hours of operation were thought to be 7 AM - 8 PM.

Chairman Eller questioned the width of the two streets in this location. Van Buren is 25' wide and Adams Street 20' wide.

Chairman Eller opened it up to the audience for their questions or comments.

Ann Tedesco, 7 Gibson Park – Mrs. Tedesco is directly across from this proposed use and indicated that the streets in questions could not handle this type of use and traffic. There are children in the house and the lighting for this business would definitely have an impact on her house and others around her. The applicant owns two other properties in this vicinity and doesn't keep these up. Garbage is also an issue of where it would be on the property.

Michele Hartl, 15 Gibson Place questioned why anyone would put so much money into such a small space. She testified that the applicant does not take care of what is there now and what he owns. It's very trashy in the area. The roads cannot handle another principal use on that site and there are too many children in the area for the increase in traffic. The bus also stops in this area to pick up children for school. Too much of an intensification of the use of this small property.

Benjamin Tedesco, 7 Gibson Place also testified that there is a water run-off issues on this property and the adjacent property he owns, Class A Auto Body.

Cory Orlando, 122 Mytle Avenue noted that we do not need another business in this area. He concerned with the safety of his children walking to the bus stop.

Don Boerer, 14 Gibson Place noted that there is a problem in the area with cars speeding. There is no room on this property for intensification of the use.

Anthony Schiano, DiCola's Pizzeria also felt that this was an intensification of the use and it would also impact his business.

Attorney Lowcher indicated that all of these issues could be addressed during the site plan process. This type of business would be in and out very quickly.

Attorney Ours questioned what the special reasons would be to grant the intensification of the use on this property? Granted the use is in the business area but can the lot handle two principal uses? The planner felt that the property could function if the applicant is allowed to make the improvements which would be addressed during the site plan process.

Board member Schlader noted that the problem with this proposal seems to be the fact that the house is already there.

Attorney Lowcher noted that some special reasons would be that his client is offering a service to the community. His applicant is proposing the necessary parking for this business, screening, lighting that would enhance the neighborhood, the water issue would be resolved and what's more it is a permitted use in the zone.

Extensive discussion followed at which time a motion was made by Semonche, seconded by Hurley that this request for a use variance be denied, based on the fact that the necessary special reasons could not be determined, there would be a substantial detriment to the public with the increased traffic in this area, the size of the lot would not justify two principal uses and this request would impair the intent and purpose of the zone plan.

Roll Call: Mangiacotti, Eller, Schlader, Semonche, Hurley and Woykowski.

Ayes: 6, Nays 0.  
Motion carried.

Resolution Annexed to the Minutes

The Board took a short recess at 9:30 PM and reconvened with everyone present at 9:40 PM.

**Case #2004:6 - Matthew S. Edmunds, 6 Hann Terrace, Blk. 98, Lot 15**

This application is filed for the purpose of adding a second floor to the house. In the Zoning Officer's Refusal of Permit this request was denied for non-compliance with the provisions of Section(s) 94-77 B2 of the Municipal Zoning Ordinance for the following reasons:

There shall be a front yard of not less than twenty (20') feet.

Attorney Ours reviewed the notices of service and the affidavit of publication and found the application in order to proceed.

The Oath was administered to Mr. Edmunds by Attorney Ours for his testimony.

Mr. Edmunds testified that he would like to add a second story to his home to construct a family room, a master bedroom and a second bathroom. The existing home is small and they need the additional space. There are homes in the area that have second stories to them that it would fit in with the scheme of the neighborhood. The existing front porch would remain on the house. The addition would be constructed over the main structure.

The Chairman noted that there was no one in the audience that wanted to address this application.

The Board asked minor questions of the applicant regarding this addition.

Attorney Ours outlined the criteria necessary for the granting of this “C” Variance for the Board.

It was therefore moved by Schlader, seconded by Semonche that the Board grant this variance to the applicant given the unusual size and shape of the lot, this request can be granted without detriment to the public good, nor will it impair the intent and purpose of the zone plan.

Roll Call: Mangiacotti, Eller, Schlader, Semonche, Hurley and Woykowski.

Ayes: 7, Nays: 0.  
Motion carried.

Resolution Annexed to the Minutes

**Case #2004:8 – Cory Orlando, 122 Myrtle Avenue, Blk. 44, Lot 18**

This application is filed for the purpose of adding an addition 16' x 24' to the front of the house.

In the Zoning Officer's Refusal of Permit this request is denied for non-compliance with the provisions of Section(s) 94-76 B 2. There shall be a front yard of not less than forty (40') feet.

Attorney Ours reviewed the notices of service to the property owners and affidavit of publication and found the application in order to proceed.

The Oath was administered Mr. Orlando by Attorney Ours.

Mr. Orlando indicated that his family has outgrown the house and that he wanted to construct a second floor addition that would be 16' x 24'. The addition would give him a family room and an additional bedroom.

Attorney Ours asked why the addition could not be constructed on the back end of the house? Mr. Orlando explained that the property sloped in the back and would interfere with other improvements in his back yard.

The Board had minor questions of Mr. Orlando.

Attorney Ours reviewed the criteria necessary for this "C" Variance for the Board's consideration.

There was no one present in the audience in regard to this application.

It was therefore moved by Schlader, seconded by Hurley that the Board grant this variance for a 16' x 24' two story addition, this addition can be added without substantial detriment to the public good, nor will it impair the intent and purpose of the zoning ordinance.

Roll Call: Mangiacotti, Eller, Schlader, Semonche, Woykowski and Hurley.

Ayes: 6, Nays: 0.  
Motion carried.

Resolution Annexed to the Minutes

**COMMUNICATIONS:**

The Easement for Ingress and Egress for the Fischer property on 286 Belvidere has been executed. This information only for the Board.

Hearing no further business to come before the Board, it was moved by Schlader, seconded by Semonche that the meeting be adjourned at 10:20 PM.

Respectfully submitted,

Frank Mangiacotti, Secretary

