

**Board of Adjustment
Minutes
July 27, 2004**

Chairman Eller declared that a quorum was present to conduct the meeting in accordance with the 'Open Public Meetings Law'

Roll Call: Hurley, Schlader, Post, Eller, Mangiacotti, Nienstedt and Woykowski – 7 Present.

Absent: Semonche – 1 Absent.

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

Chairman Eller led everyone in the flag salute.

MINUTES:

Regular Meeting – June 22, 2004

Chairman Eller entertained additions or corrections to the minutes of the regular meeting held June 22, 2004.

One correction was noted on Page 3 of which the Clerk noted. It was therefore moved by Mangiacotti, seconded by Hurley that the minutes of the regular meeting held June 22, 2004 be approved as corrected.

Roll Call: Nienstedt, Hurley, Schlader, Post, Eller and Mangiacotti – Ayes: 6,
Nays: 0. Abstained: Woykowski.

Motion carried.

OLD BUSINESS:

Case #2004:7 – Francis & Patricia D'Astoli, 284 Belvidere Avenue, Blk. 35, Lot 46

This application was tabled from the last meeting. Revised plans for the addition were submitted for consideration.

Mr. D'Asoli submitted revised plans that reflect a 27' x 25' two story addition to his home. The addition will be placed on the south side of the existing two story house which will eliminate the problem on the easterly side of the contaminated soil which is adjacent to his property from the Turbine Alloy site.

The revised plans were marked into evidence as A-1 dated 7-27-04 and a new survey which was marked into evidence as A-2 which will become a part of the resolution.

Chairman Eller noted that the record shows that there was no one in the audience that had any questions or comments regarding this application.

Attorney Ours reviewed the necessary criteria required to consider the approval of this variance.

It was moved by Hurley, seconded by Post that a variance be granted to Mr. D'Astoli for a 27' x 25' two story addition on the south side of the property, the addition maintaining the same line of the house, it's location being more logical to address the soil contamination, this request can be granted without any detriment to the public good, nor will it impair the intent and purpose of the zone plan.

Roll Call: Mangiacotti, Eller, Post, Schlader, Hurley and Nienstedt – Ayes: 6,
Nays: 0. Abstained: Woykowski.

Motion carried.

(Resolution Annexed to the Minutes).

APPLICATIONS:

Case #2004:9 – Frederick A. Perry, 19 East Church Street, Washington, NJ, Blk. 24, Lot 1.02

This application is filed for the purpose of constructing a deck on the side and rear of 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 B3 and 9477 B4 of the Municipal Zoning Ordinance for the following reasons: There shall be a side yard no less than 6' and there shall be a rear yard no less than 25'.

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

The oath was administered to Frederick Perry for testimony.

Mr. Perry testified that he would like to extend his existing 6' x 6' rear porch on the rear of his property and wrap it around the side of his property to create a deck that he could utilize and improve the living space of his house. The yard is very small. The deck would not be extended any further into the yard but run with the existing porch off the rear and wrapped around to leave a five (5') side yard. He further testified that both his neighbors have decks off the rear of their properties also. The deck height would be 50" off the ground with lattice work on the bottom. This property is a three family duplex on a small parcel of land.

Chairman Eller noted that there was no one in the audience that has any questions or testimony with regard to this application.

The Board members had no questions of the applicant.

Attorney Ours reviewed the criteria necessary to consider the approval of this variance.

It was therefore moved by Schlader, seconded by Nienstedt that Mr. Perry be granted a variance to construct a wrap-around deck attached to his existing porch in accordance with his plans, said deck to be constructed within the boundary line of the existing porch, conditioned upon lattice work being placed on the bottom, said variance can be granted due to the unusual side and shape of the lot, there is no detriment to the public good, nor will be it impair the intent or purpose of the zone plan.

Roll Call: Nienstedt, Woykowski, Hurley, Schlader, Post, Eller and
Mangiacotti – Aye: 7, Nays: 0. Motion carried.

(Resolution Annexed to the Minutes).

Case #2004:10 – Randy Werkheiser, 239 W. Washington Ave., Washington, NJ, Blk. 101, Lot 14

This application is filed for the purpose of constructing a 12' x 24' deck on the rear of the house.

In the Zoning Officer's Refusal of Permit this request was denied for non-compliance with the provisions of Section(s) 94-73.2 D of the Municipal Zoning Ordinance for the following reasons: A patio, porch, deck shall have no dimension greater than 12' or other similar customary accessory use which does not expand the gross floor area of the dwelling to a non-conforming use.

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

The Oath was administered to Randy Werkheiser.

Mr. Werkheiser explained that the deck has already been constructed. The deck is 12' x 23' and spans across the back of the house. Mr. Werkheiser noted that the deck looks better given its size. The height of the deck from the ground is 7'

The Board discussed Mr. Werkheiser's request and explained that the proper procedure would have been to apply to the Zoning Officer for a permit prior to proceeding and going through with the construction. They cautioned Mr. Werkheiser from doing this in the future. Mr. Werkheiser noted the Board's concern.

Chairman Eller noted that there was no one in the audience that had any questions or testimony in regard to this application.

Attorney Ours reviewed the criteria necessary to consider the approval of this variance.

It was therefore moved by Woykowski, seconded by Nienstedt that Mr. Werkheiser be granted a variance approving the construction of his 12' x 23' on the rear of his house, this variance can be granted without any detriment to the public good, nor will it impair the intent and purpose of the zone plan.

Roll Call: Schlader, Post, Mangiacotti, Nienstedt, Eller and Woykowski.
Ayes: 6, Nays: Hurley.

Motion carried.

(Resolution Annexed to the Minutes).

Case #2004:11 – Charles & Susan McDade, 115 Taft Terrace, Washington, NJ, Blk. 71, Lot 14

This application is filed for the purpose of enlarging an existing deck to 12' x 25'.

In the Zoning Officer's Refusal of Permit this request was denied for non-compliance with the provisions of Section(s) 94-76 B2 of the Municipal Zoning Ordinance for the following reasons: There shall be a front yard of not less than a 40' except that where the existing building is on the same side of the street and within 200' from an established setback of 30'.

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

The oath was administered to Mr. McDade for testimony.

Mr. McDade explained that he is requesting that the deck on his home, which a variance was previously approved, is too small to be functional for his family. He would like to enlarge the deck to be 12' x 25'. This would initially be squaring off the deck to allow them to really utilize this space as additional living area for his family's use. Aesthetically it will also improve the property. The trees that were originally on the side of the house have been removed.

Because of the size of the deck they have been deprived of its use. It has not been functional for their use since they purchased the property.

The Board members discussed the increased size of the deck and Board Member Larry Hurley agreed that it was way too small to be functional and aesthetically increasing the size of the deck would look much more attractive on the house.

Chairman Eller noted that there was no one in the audience that has any questions or testimony with regard to this application.

Attorney Ours reviewed the criteria necessary for the approval of this variance and deemed it a C-2 Variance.

It was moved by Mangiacotti, seconded by Woykowski that Mr. McDade be granted a C-2 variance in view of the fact that the previous variance granted was too small to be a functional deck, the size of the deck to be increased to be 12' x 25', five (5') high from the ground, this variance being granted with no detriment to the public good, nor will it impair the intent or purpose of the zone plan.

Roll Call: Woykowski, Nienstedt, Mangiacotti, Hurley, Schlader and Eller.
Ayes: 6, Nays: Post. Motion carried.

(Resolution Annexed to the Minutes).

Case #2004:12 – Dr. Stanley J. Blyskal, 123 W. Washington Ave., Washington, J, Blk. 71, Lot 14

This application is filed for the purpose of placing a free-standing sign in the front yard of this optometrist office for better visibility for their patients.

In the Zoning Officer's Refusal of Permit this request was denied for non-compliance with the provisions of Section(s) 94-62 (B) of the Municipal Zoning Ordinance for the following reasons: Free standing sign in the front yard is not a permitted use in the B-2 Zone.

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

The oath was administered to Dr. Stanley Blyskal and his partner, his daughter, Jaime Marcolini for testimony.

Dr. Blyskal explained that they wished to have a free standing sign to replace their existing sign for better visibility as people travel up and down Rt. 57. The sign will be placed on the right side of the door in the lawn and the bushes will be removed. The sign will be located 8.5 feet from their driveway and the sign will be 8.5 feet from the sidewalk leading to their door and 3 feet inside the public sidewalk. The size of the sign will be 2' high x 4' wide, double-sided set in a light-box design. Lighting is proposed until dark or approximately 9 PM.

The Board discussed the location of the sign and were concerned with whether the view would be obstructed in utilizing the driveway? It was determined that the sign is high enough that it will not obstruct anyone's view.

Chairman Eller noted that the record shows that there was no one in the audience that had any questions or comments regarding this application.

Attorney Ours reviewed the necessary criteria required to consider the approval of this variance.

It was therefore moved by Nienstedt, seconded by Post that a variance be granted to Dr. Stanley Blyskal for the placement of a 2' x 4' free-standing sign to be located in the center of the grassy area between the sidewalk and building, there is no detriment to the public good, nor will it impair the intent and purpose of the zone plan inasmuch as there is several free-standing signs in this same vicinity.

Roll Call: Eller, Post, Schlader, Hurley, Woykowski, Nienstedt and
Mangiacotti - Ayes: 7, Nays: 0.
Motion carried.

(Resolution Annexed to the Minutes).

The Board took a short recess at 9:45 PM and reconvened at 10:00 PM with everyone present.

CASE #2004:13 – Samuel Hicks, Garfield & Harrison St., Washington, NJ, Blk. 61, Lot 10 (Represented by Alan Lowcher, Esq.)

The application is filed for the purpose of constructing a 2-story single family home.

In the Zoning Officer's Refusal of Permit this request was denied for non-compliance with the provisions of Section(s) 94-50 b & 94-9 F of the Municipal Zoning Ordinance for the following reasons: Each lot must front upon an approved paved street and variances have a one (1) year time limit.

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

The Oath was administered to Samuel Hicks, Jr. for his testimony.

Attorney Lowcher represented Mr. Hicks and presented into evidence Exhibit A-1 which represented the deed to the property. This parcel is a pre-existing building lot. Exhibit A-2 was submitted into evidence showing the survey with a 30' easement to be used for residential purposes only. The lot in question is in the R-2 Zone. The property was formerly owned by Michael Ashman who initially applied for a variance in 1986 to construct a single family home. A former resolution granted approval for this home, the resolution was marked into evidence as Exhibit A-3. Board members Post and Mangiacotti served on the Board at that time. The variance was granted to construct this home on an unimproved street.

Exhibit A-4 marked into evidence were copies of the easement from the property owners that are binding and have been recorded in the County Clerk's office.

Mr. Hicks plans on building a home 2-1/2 stories high, with a 40' front yard which meets the zoning regulations and 8' side yards. The rear yard setback is not applicable in this instance. He also meets the minimum lot area of 11,250' sq. feet. Mr. Hicks has 10,660' ft. There is no other land available adjacent to his lot that could bring him into compliance.

Denial of his request for a permit was marked into evidence as Exhibit A-5.

Exhibit A-6 filed was Ordinance #23-86 adopted in October vacating a portion of the paper streets in this area.

Exhibit A-7 was a letter from the Chief of Police.

Letters were sent to the Fire Chief and Emergency Squad but there was no response to date.

It was demonstrated that there was a report in the file from 1986-87 from the former Fire Chief, Thomas Miller that the access was satisfactory for the fire equipment to service this lot. The Board determined that a lot of time has elapsed and they would prefer recommendations from the present Fire Chief and Captain of the Emergency Squad dealing with access to this lot for emergency vehicles and services.

Attorney Ours questioned whether the Winter's family could be approached to purchase property that would bring this lot into conformance. It was noted for the record that they have approached the Winter's family and they have refused to sell any of their property.

The Board has no questions at present. Chairman Eller opened up the audience portion of the application for questions of the applicant.

Mr. Charles Anthony, owner of the professional buildings on the Boulevard questioned where they would park and where would they place their garbage out for pick-up? A question was posed as to why they couldn't go in through Van Buren Street. This seemed more logical. Mr. Anthony granted deeds of easement for egress and ingress to this parcel but was very concerned with the liability issue if this roadway was going to begin to be utilized extensively.

Board member Hurley was very concerned with the safety angle of entering into this lot by way of this easement. He strongly suggested that we get a response from the Fire Department and Emergency Squad.

Board member Woykowski questioned how all the paper streets came about in this area? Attorney Ours explained that most of these streets were created and came about prior to zoning. The Gibson Park area was developed but there was no real input from a planning standpoint, hence, a lot of paper streets came about after the homes were plotted out and built.

John Sozansky, 160 Jefferson Street questioned whether there was going to be more than one principal use on this property? It was stated for the record it was going to be for residential use only; no trucks.

Garbage and Utility trucks were of concern also for ingress and egress.

Attorney Lowcher noted that his client, Mr. Hicks, was in the paving business and would be willing to pave Garfield Street.

Chairman Eller noted that due to the lateness of the hour he was closing the public testimony for this evening. This case would be tabled until the August meeting.

The Board requesting that there be reports from the Emergency personnel regarding ingress and egress into this property for the next meeting.

There being no further business to come before the Board, it was moved by Post, seconded by Mangiacotti that the meeting be adjourned at 11:30 PM.

Ayes: 7, Nays: 0. – Motion carried.

Respectfully submitted,

Frank Mangiacotti, Secretary

