

**Board of Adjustment Minutes
October 26, 2004**

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

Roll Call: Hurley, Eller, Nienstedt (Arrived at 8:20 PM), Woykowski, Post, and Semonche – 6 Present.

Absent: Mangiacotti and Schlader – 2 Absent.

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

Chairman Eller led everyone in the flag salute.

MINUTES:

Regular Meeting – September 28, 2004

Chairman Eller entertained additions or corrections to the minutes of the regularly scheduled meeting held September 28, 2004.

Hearing none, it was moved by Hurley, seconded by Woykowski that the minutes of the regularly scheduled meeting held September 28, 2004 be approved as presented.

Roll Call: Woykowski, Hurley and Eller – Ayes: 3, Nays: 0.
Abstained: Semonche and Post.

Motion carried.

RESOLUTIONS:

Case #2004:17 – David & Julia Wulf, 5 McKinley Avenue

It was moved by Woykowski, seconded by Hurley that this resolution be adopted as approved at the September meeting granting approval to Mr. & Mrs. Wulf for enclosing their carport and paved parking area w/driveway opening on Fillmore Street.

Discussion: Attorney Ours noted that a diagram approved by the zoning officer would be attached to the original resolution as a permanent record.

Roll Call: Eller, Hurley and Woykowski – Ayes: 3, Nays: 0.
Abstained: Post and Semonche.

Motion carried.

Case #2004:18 – Jay Ferguson, 70 Grand Avenue

It was moved by Hurley, seconded by Woykowski that this resolution be adopted as approved at the September meeting for Mr. & Mrs. Ferguson for replacement of a shed on the original foundation.

Roll Call: Hurley, Woykowski and Eller – Ayes: 3, Nays: 0.
Abstained: Semonche and Post.

Motion carried.

OLD BUSINESS:

Case #2004:15 – Eric Matland, 3 S. Prospect Street, Washington, NJ, Blk. 100, Lot 3

This application is filed for the purpose of installing a driveway 8.5' wide and 31' deep.

The application has been tabled and the applicant wishes to continue testimony with reference to his application.

Prior to entertaining any additional testimony it was determined what Board members could hear the case. (Post-Hurley-Nienstedt and Eller) – 4 Voting members. Board members Woykowski and Semonche would be abstaining.

Mr. Matland stated that he did not have any testimony to add. Because of the narrow condition on the street he would like to get his vehicle off the street and on his own property.

Chairman Eller noted that given the size and shape of the lot Mr. Matland did not have sufficient room in which to park his car. The zoning regulations do not address the size of the vehicle. The driveway is not of sufficient width to permit one to be constructed.

Discussion took place at which time a motion was made by Post, seconded by Hurley that Mr. Matland's request for a variance be denied based on the size and shape of the lot and its location to the street which would present an extreme safety hazard as well as the sight distance being very poor, this variance is further denied as it would be a detriment to the public good and would impair the intent and purpose of the zoning ordinance to adhere to the side yard setback requirements.

Roll Call: Hurley, Post, Eller and Nienstedt – Ayes: 4, Nays: 0.
Abstained: Woykowski and Semonche – 2.

Motion carried.

Case #2004:19 – Darryl Duryea, 335 Belvidere Ave., Washington, NJ, Blk. 6, Lot 58

This application is filed for the purpose of applying for a use variance to allow for a three family dwelling in the R-1 Zone District.

Jereome Baucom, Esq., will be representing the Board on this application.

Stuart Ours, Esq. stated for the record that he was stepping down as he had a conflict of interest in this particular case and that Jerome Baucom, Esq. would be representing the Board.

Mr. & Mrs. Duryea is being represented by Alan Lowcher, Esq.

The notices of service and affidavit of publication were reviewed by Attorney Baucom and found to be in order. The Board can proceed.

The property is located in an R-2 Zone where a three family home is not permitted.

The oath was administered to Mr. Darryl Duryea for his testimony. Mr. Duryea resides at 12 Edgemere Terrace, Washington, NJ.

Mr. Lowcher explained that the Mr. Duryea is presently under contract to sell the property. There is no record that this property is approved as a three family dwelling. The Duryea's acquired the property in 1981 and they purchased it as a three family dwelling. Sometime between 1969 and the time they purchased the property it was converted to a three family. The residence was constructed as a two family residence back in 1961 prior to Zoning regulations being implemented. The Department of Community Affairs has been inspecting the property over the years as a three family dwelling. The buyer requested municipal recognition acknowledging that it is a legal three family dwelling. Mr. Duryea did not create the three family conversion but purchased the home from his father.

Submitted into evidence was a photo of the home marked into evidence as Exhibit A-1. Each apartment has two bedrooms, their own kitchen facilities and bath with separate entrances.

The deed was marked into evidence of Exhibit A-2.

Mr. Duryea testified that his father had registered the property as a three family house with the Department of Community Affairs prior to his taking over the property.

Exhibit A-3 was an affidavit from Mr. Harold Cole attesting that the property has been a three family since 1969 and has been continuously occupied as a three family.

Exhibit A-4 was an affidavit from Mr. Darryl Duryea listing all the prior tenants that occupied the residence as a three-family since 1969.

The Clerk excused herself from the Zoning Board meeting at 8:45 PM to attend a special Council Meeting that the Mayor requested she attend. Board member Christina Woykowski took over as secretary for recording of the minutes.

Additional documents were marked into evidence A-5 thru A-9 representing evidence that clearly indicates that it is a three-family residence. The multiple dwelling inspections from the Department of Community Affairs, the sewer utility bills, the Fire Inspection Certificates from the fire code official and a print-out from the Tax Assessor. All these documents provide proof that this residential dwelling has been a three-family dwelling for the duration of Mr. Duryea's ownership.

Chairman Eller entertained any questions or testimony from anyone in the audience. There was no one in the audience that had any comments relative to this application.

Attorney Baucom outlined the criteria necessary for the granting of this variance which would be a "D" variance or use variance.

Board discussion followed. Board member Post addressed parking. How many off-street parking spaces could be provided for the tenants? Mr. Duryea stated that he believed there was parking for 7 or 8 cars. Mr. Post disagreed and felt that 4 cars is more realistic. It was referred back to the survey that shows there is sufficient parking for 6 cars as required for a three-family dwelling.

Attorney Baucom noted that there does appear to be special reasons for the granting of this variance, there is no detriment to the public good and the applicant has met the criteria for satisfying proof that it has been occupied as a three-family dwelling for better than 35 years. It would be an extreme hardship on the owner and the current tenants that occupy the dwelling.

It was therefore moved by Hurley, seconded by Nienstedt that a Use Variance be granted to allow the continued occupancy of this residence known as 335 Belvidere Avenue as a three-family dwelling, given the fact that there is no substantial detriment to the public good, nor does it impair the intent and purpose of the zone plan as there is similar dwellings in the immediate vicinity of this house and the applicant has satisfied the Board that it has been a three-family dwelling for a number of years.

Roll Call: Nienstedt, Hurley, Post, Eller, Schlader and Woykowski.

(Resolution Annexed to the Minutes).

**Case #2004:Catholic Charities, Warren/Hunterdon Counties/Diocese of Metchen,
189 Belvidere Avenue, Washington, NJ, Blk. 20.03, Lot 1.02** (Represented by Thomas
Hampshire, Esq.)

This application is filed for the purpose of applying for changing the use of this property from office use to a group home.

Catholic Charities is being represented by Thomas Hampshire, Esq.

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

Prior to hearing the application, Board member Semonche noted that on the prior resolution adopted in 1991 he abstained from taking part in the application. He questioned whether he should abstain from this application. Both the Board and the attorney's did not have a problem with Board member Semonche taking part in the application. There would only be five present if Board member Semonche did not take part in the application.

The application is being filed to request the Board to interpret the intent of the zoning ordinance to classify this application as a permitted residential use. The proposed use for this building is to utilize it as a group home. The intent is to prove that they will be acting and living as a single- family unit. The Borough's Code does not define a family unit as having to be related.

Thomas Hampshire called his first witness who was sworn in for testimony. The witness was Eric F. Ercolano, A.I.A., Architect representing Catholic Charities. Mr. Ercolano stated his education and years of experience for the Board's benefit. He reviewed the plans with the Board outlining the floor layout, parking that would accommodate twelve (12) cars. The building is located in an OB Zone and permits offices and multi-family houses. The plans calls for six (6) bedrooms for twelve (12) residents. Originally the residents were going to be mixed (girls and boys). They have since changed their plans to have it be all boys. The building has public water and sprinklers are in the building for fire purposes. The only real change on the first floor will be a change in the windows and the bathrooms that will have to be constructed. The second floor will be altered to include a kitchen, pantry area, a common area with recreational facilities. Exhibit A-1 of the layout was marked into evidence.

The next witness sworn in for testimony was Marci Booth who has been an employee of Catholic Charities for approximately 9-1/2 years. The program was outlined for the benefit of the Board. She is presently the Assistant Division Director and oversees the day to day operations in the group home. There is usually one social worker and one diagnostic manager on staff.

The clients who come to a group home facility are usually referred from the Division of Youth and Family Services or Care Management Organizations which come under the Childrens Welfare Reform Act which comes under privatization or similar to a HMO. The children range in age from 12 to 18 years of years of age.

The clients who come to this group home usually have emotional problems behavioral problems or family problems which prevent them from being safe in their homes. Some have been convicted of juvenile offenses but most of the charges are not of a serious nature where they are convicted. Treatment is offered in lieu of charges.

Ms. Booth testified that there are two similar facilities such as this one proposed. One is Peter & Paul House in Phillipsburg and another in Perth Amboy which she visits at least once a week. Both have been established longer than she has been associated with Catholic Charities.

Normal day to day activities in the group home would be school everyday, morning activities, showers, breakfast and getting off to school. After school, homework assignments being done, snack, free time and preparation of dinner as a group and chores being assigned. They would attend the local schools. They try to keep the clients within the County they are in or in the vicinity of the community in which they lived. They prepare them and counsel them so that they can become re-unified with their families. They do not all come from unhappy home settings, very often they have behavioral problems that come about from an unstable marriage, etc.

They do not have a locked door policy. The client interacts with the community with staff supervision. They must sign in and sign out and must complete a pass permission slip acknowledging where they are going in the community and when they are expected back. More supervision than they may perhaps get at home where a parent may not know where they are or when they are coming home.

The level of staff in a group home is one staff member per six clients and one staff member during night time hours. During high level times when there is a lot of activity and programs scheduled they could have two to three staff members. Their qualifications for becoming a staff member, minimum requirements of a high school diploma, one year of experience, background checks which include finger printing and criminal back-ground checks. They go through an orientation where the rules and regulations are gone over and what they expect of them and then they go through a four week process of where they shadow work with an experienced staff member. There is on-going criminal follow-up on the staff after they are hired also.

Interaction with the community was discussed with Ms. Booth and if there is any impact on the community negatively they are given discharge notice and their case is turned back to the Division of Youth and Family Services to find another placement for this client. Disciplinary problems in the school was discussed. Their behavior is typical of any student. The staff works very closely with the teachers if a client is having problems in school and the problem is rectified.

Attorney Hampshire questioned how often the Police are called in with regard to neighborhood complaints? Ms. Booth indicated it was a very rare occasion. The group home in Phillipsburg she could only recall two or three times. One was a trespassing problems and another client on their property making lewd remarks. The client is disciplined or he is removed from the group home.

Clients generally are only placed for a period of six to twelve months and then they moved to a lesser restrictive situation which could be back to their families, foster homes, another group home which is less restrictive or independent living. If they get in trouble in the Juvenile Justice System and can't be involved the Division of Family Services and the parents are brought back into the situation. Anytime they fail to live up to the rules and regulations they are removed from the group home and referred back to DYFS.

The age of staff members was discussed and they range from 20 years of age to approximately 30 years old. Turnover was discussed and no real statistical information was available. The staff is a mix of high school graduates and college graduates who are trained as social workers.

Chairman Eller questioned what the needs of the clients are in the school system? Ms. Booth stated that for the most part they fall under the regular educational requirements unless they require special needs in the way of behavioral problems or simply smaller classroom participation for falling behind in their studies as a result of their situation. Chairman Eller asked if they had contacted the Washington School Board with respect to the possibility of this group home becoming a reality and whether they could handle the needs of these clients? Ms. Booth indicated that they had not contacted the school but if there were any special needs the community in which the client lives in would be responsible to the payment of the clients education and not Washington Borough. Chairman Eller was still concerned as to whether the Borough school system would be adequately staff to accommodate their needs? If they were not, then they would have to be transported to a school that could accommodate their needs.

Visitation rights were discussed and it depended upon the circumstances involved in the client's placement and there is also supervised visitation that the staff would be present.

Board member Hurley questioned their screening process. Initially DYFS does the initial screening but then Catholic Charities does their own screening process. Any excessive violence in a client is not a client that they will entertain in a group home environment.

Attorney Ours wanted clarification as to whether this would be an all boy group home? Ms. Booth indicated that there was lack of communication and that it was always going to be all boys. The group home in Phillipsburg is all boys. The group home in Perth Amboy is half boys and half girls.

Board member Semonche asked the question of Ms. Booth as to why the Board should consider this a family situation?

Ms. Booth indicated that there were several reasons. The clients function as a family and the staff as well. They provide a home-like setting. Their activities are much like you would do at home. They have Thanksgiving and Christmas dinner as a family much as you would do if you were home. They try to provide them with a stable home-like environment which unites them as a family. Attorney Ours noted that they also cook together as a family. Ms. Booth indicated that they did and they are held accountable as a family would be. They divide the chores up in the home as you would do if you were home with your family. Many forms lasting friendships as a result of this bonding.

Board member Hurley asked whether friends are encouraged to visit. This is encouraged to make them feel like they are experiencing normal teenage behavior.

Board member Nienstedt asked the question as to whether there was any mechanism on whether they screened or check some of the friendships that develop with students in the school system, such as his son if he were to make friends with one of the boys in this group home?

They would be checked out just as you would check any person out who befriended your child.

Attorney Ours addressed the staff and how many were in attendance and whether there was any type of schedule. There is a program supervisor who schedules the shifts on a rotating basis and there is consistency whenever possible.

Chairman Eller questioned how a client would establish himself as a family member when they may only be in the group home 6 months to 12 months? Ms. Booth indicated it depends on the individual. Some individuals never bond with anyone and other bond very fast. It depends on their home life before entering the group home and how well they adjust together as a family.

Chairman Eller also asked about summer time? Same functions as any normal family. Recreational programs are encouraged and summer jobs. They even vacation together as a family. One group went to Florida this year together.

Chairman Eller asked if there were any more facilities like this in the County? Ms. Booth noted that there was only the one in Phillipsburg. Other Counties? She did not know, other than the one in Perth Amboy she was associated with.

Board member Woykowski asked how long the average staff member stayed? The average was one year and three months. They encourage staying one year. It depends on the individual and whether they find they enjoy this type of vocation. Some may think the job is for them and others may not be able to make the adjustment and move on to another vocation.

Board Member Eller entertained questions from the audience of the witnesses?

Simone Gyuricza, 25 W. Warren St. questioned what after school down time supervision there was. There is a property in close proximity to this proposed group home where people have drug related problems. The clients in this group home should be kept away from this neighborhood and life style. The staff of the group home would be apprised of this problem area and supervise the clients accordingly.

Anyone who goes out on an unsupervised time pass has to sign in and sign out and be very specific what they are going to do, where they are going and what time they plan and coming home. They do send their staff out to check on them. They will follow any curfew that the community has established. If there is none, they will institute their own.

Jeanne Sargent, 187 Belvidere Avenue stated that she lives six and half feet from this property. She questioned the supervision for twelve boys, ages 12 thru 16, particularly one person to cover the evening shift?

Mr. Dominic Romero responded to this question and indicated that the statistics Ms. Booth gave were the minimum staff required. There in all probability could be more. They usually have two over night staff, an over-night supervisor and a on-call system in place .

Attorney Hampshire requested that Mr. Dominic Romero be administered the oath for testimony. Attorney Ours administered the oath to Mr. Romero.

Attorney Hampshire asked Mr. Romero to affirm the statements he just made. He did so under oath. He stated his educational background and he has been affiliated with Catholic Charities for 20+ years.

Jeanne Sargent questioned how this home could be classified a family? How can they bond as family when the time frame there in a group home is six months to a year?

Ms. Booth attested that in the group home they are in safe, nurtured environment with people who love and care about them. The people around them become family and may be the only family they can relate to.

Mr. Romero noted that as a family they get to share all their emotions in a safe environment.

Mrs. Sargent commented that they were being very optimistic and she knows that it isn't always that way, speaking from experience. She wanted them to be more realistic and open as to what some of the negative aspects were? How will they handle problems when they arise and how they plan to protect the neighborhood?

Mr. Romerro addressed independent living and pointed out that this is another level. The clients in a group home do have emotional and behavioral problems. No, it isn't always sunshine. The staff at the group home will work very closely with the neighborhood and the school system and will respond to every problem that is brought to their attention. They have someone on call 24 hours to handle concerns and complaints. There are other problems in the community that are not responded to as well as what they will do!

Chairman Eller summarized the events to date. Questions will be entertained this evening and if time permits testimony wherein residents will be administered the oath.

Andrew Turner, 300 Belvidere Avenue asked the question that if a 12 year old still needs treatment after the twelve months are up, do they take this into consideration? Ms. Booth indicated that through evaluation if an extension was warranted they would do so. Mr. Turner questioned the bonding of these clients with the community. He was concerned with bringing these boys into the community at this particular location.

John Maguire, 187 Belvidere Ave. questioned the definition of family? Twelve boys with minimal supervision with constant turnover? In his opinion that did not constitute a family. It is not a family in no way, shape or form.

Albert Zabriskie, Belvidere Avenue asked whether they would ever consider going to co-ed? Also, would there be anymore than twelve clients in this group home? The statutory limit for a group home is 12 and as to going co-ed, they have found that the same gender causes less problems.

Simone Gyuricza, W. Warren St. questioned statistics regarding group home children and neighborhood children? If there are issues with group home client and children in the neighborhood the staff will address the issues and resolve them. There has never been a lot of frequent problems.

Some problems addressed at the Phillipsburg group home were smoking on their own property where there is a memorial located. They addressed it and resolved it immediately.

Simone Gyuricza, W. Warren St. posed a concern for the safety of her teenage step-daughter who spends weekends there.

Jeanne Sargent, Belvidere Avenue question the summer months and how they thought that boys 14 to 16 years of age would get jobs. Jobs are scarce within walking distance for this age group.

Ms. Booth noted that they encourage them to do volunteer work and they provide transportation by way of the staff. Mr. Romero noted that they do have recreational programs that they have available to them also so they are not just hanging out on the property. They do not encourage loitering on the property. They lead a very structured life and they have a multitude of things for them to do.

Board Chairman Eller addressed the smoking issue and noted that if they were under the age of 18 they should not be smoking. As part of their treatment plan there are consequences if they are caught smoking.

Mr. Romero noted that the clients that are in these group homes think of this as a family because they know they are safe, they are not going to get hit, they are going to get fed and have clean clothes and they are going to have people to share their joys and concerns with. Some kids are difficult and never bond with the group as family and then there are others that bond quickly. It depends on the circumstances leading up to their coming to the group home.

Andrew Turner, 300 Belvidere Avenue questioned if there were any sex offenders in a group home? They stated that this would not be the case. Mr. Turner noted that this is a walking district for the schools. He was concerned for his daughter's safety.

Mr. Romero stressed that they are always under constant supervision. His experience with the Phillipsburg group home, the problems have been minimal in his 14-1/2 years with them. Minor neighborhood problems and smoking that were immediately resolved. Maybe three or four complaints over the years. They received a

very good positive letter from one neighbor in the vicinity of the group home who had several concerns when they first opened.

Board of Adjustment Minutes – 10-26-04
(Cont'd.) Page 12

Andrew Turner, 300 Belvidere Avenue asked if the clients walked to school? They indicated that they did unless there was a problem brought to their attention. Mr. Turner questioned whether there were any drug offenders? The reply was No. Some may have had an experience with drugs but no addicts.

Jeanne Sargent, Belvidere Avenue had a question of the architect with regard to what type of windows would be installed? The architect noted that the existing windows would be utilized but the framework in the middle would be removed to combine two narrow windows into one. There would be no new windows installed.

Board Member Woykowski addressed individual therapy and how it would be handled: The social worker and behavioral technician would address any problems. Given the staff that would be available Board member Woykowski questioned whether the other group residents would have the proper supervision.

Due to the lateness of the hour Attorney Hampshire's summation and testimony from the residents will be carried until the next meeting.

Chairman Eller noted for the record that the next meeting would be Tuesday, November 23, 2004 at 8 PM at which time this case will be continued.

The communications from this meeting will also be carried.

Hearing no further business to come before the meeting, it was moved by Hurley, seconded by Semonche that the meeting be adjourned at 11 PM.

Respectfully submitted,

Frank Mangiacotti, Secretary

