

**Board of Adjustment Minutes
December 28, 2004**

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

Roll Call: Nienstedt, Post, Woykowski, Hurley, Eller and Mangiacotti.
6 Present.

Absent: Semonche and Schlader – 2 Absent.

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

Chairman Eller led everyone in the flag salute.

MINUTES:

Regular Meeting – November 23, 2004

Chairman Eller entertained additions or corrections to the minutes of the regular meeting held November 23, 2004.

Hearing none, it was moved by Post, seconded by Hurley that the minutes of the regular meeting held November 23, 2004 be accepted as presented and filed.

Roll Call: Woykowski, Hurley, Post and Eller – Ayes: 4,
Nay: 0. Abstained: Nienstedt and Mangiacotti.

Motion carried.

RESOLUTIONS

**Case #2004:21 – Catholic Charities, Warren/Hunterdon County – Diocese of
Metuchen, 189 Belvidere Avenue**

Chairman Eller had a concern with the wording in the resolution on Page 4 which he wished to discuss with the Board and attorney concerning the staff and their relationship to the residents living in the group home. He suggested that there be further editing and clarification of this paragraph.

Case #2004:22 – Barry R. Copen, Jr., 241 Carlton Avenue

It was moved by Hurley, seconded by Woykowski that this resolution be adopted as approved at the November meeting granting Mr. Copen permission to leave his shed where it is presently constructed.

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

Motion carried.

APPLICATIONS:

Case #2004:23 – Vincent E. Roland, Jr, 33 Lambert St., Bk. 2.11, Lot 33

This application is filed for the purpose of constructing a 10' x 24' patio room and deck.

In the Zoning Officer's Refusal of Permit this request was denied for noncompliance with the provisions of Section(s) 94-75 B (4) of the Municipal Zoning Ordinance for the following reasons:

Uncovered decks may be constructed in the rear yard, provided that a rear yard of not less than 35 feet shall be maintained.

Attorney Ours reviewed the notices of service and affidavit of publication and determined that the Board had jurisdiction to hear this application.

The Oath was administered Mr. Vincent Roland by Board Attorney Ours.

Mr. Roland explained that they were requesting permission to construct this patio room and deck for a family convenience for their daughter who has cerebral palsy and is confined to a wheel chair. They wish to put an addition of 10' x 24' on the rear of their house with 10' x 12' being an enclosed patio room and the other 10' x 12' an open deck. The addition will be located on the first floor off the kitchen. Pictures were submitted into evidence and marked Exhibit A-1.

Barry Moyer from Appleby Contracting was present and is doing the work. The property shows that based on the placement of the house there is a 48' front yard and a 36' rear yard setback, hence they cannot meet the 35' foot rear yard set back.

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

Discussion followed at which time the building envelope and survey information did not appear to be accurate. It was suggested that the Code Enforcement Officer verify the dimensions of the property from the as-built drawings. Mr. Bescherer stated he had an as-built survey that indicated Mr. Rowland had a 42' rear yard. He will verify this information for the Board.

It was therefore moved by Post, seconded by Nienstedt that this case be tabled for the January meeting and further Mr. Roland agreed to a thirty (30) day extension on the time frame for considering the approval of this application pending additional information from Mr. Bescherer, Code Enforcement Officer.

Ayes: 6, Nays: 0.

Motion carried.

Case #2004:24 – Carolyn & William O'Rourke, 23 South Jackson Avenue, Blk. 81, Lot 4

This application is filed for the purpose of converting a single family home to a two family dwelling.

In the Zoning Officer's Refusal of Permit this request is hereby denied for noncompliance with the provisions of Section(s) 94-77 B5 and 94-53 I of the Municipal Zoning Ordinance for the following reasons: Every single-family dwelling shall have a minimum lot area of 6,250 Sq. Ft. and 5,000 Sq. Ft. per family unit. 1.75 to 2.0 off street parking spaces must be provided.

The attorney reviewed the notices of service and affidavit of publication and determined the Board had jurisdiction to hear the application.

The Oath was administered to Mr. William O'Rourke for testimony.

Mr. O'Rourke testified that he would like to convert this single family residence back to a two family. At one time it was a two family house. He outlined where the two separate entrances to each unit would be for benefit of the board.

The survey was marked into evidence as Exhibit A-1. He also provided pictures that were marked into evidence at Exhibit A-2. Mr. O'Rourke resides on the property but the property is owned by his mother, Carolyn O'Rourke.

Mr. O'Rourke explained that he would like to upgrade the electrical and plumbing and update the property to make it look better. He also testified that the living space is too much for him to maintain and for economic reasons he would like to convert the property to gain additional rent to assist him financially.

The Board discussed his request. The survey indicates that he only has 3,448 square feet and 5,000 Square feet is required for a two (2) family residence. The property is also a non-conforming lot and does not meet the square footage for a single family house. A two family residence would also required four off street parking spaces. There is only space for three parking spaces on the lot. Mr. O'Rourke is short 6,500 Sq. Foot.

The lot is an undersized lot. The Board is not looking to encourage approval of sub-standard apartments. Attorney Ours also pointed out that economic reasons are not to be considered a hardship.

Board member Post noted that the lot is too small and does not provide any yard to warrant two families living in this residence.

Chairman Eller directed that the record show there is no one in the audience who has any questions or comments on this application.

Attorney Ours reviewed the criteria necessary for the granting of this variance. An additional variance would also be required for relief from the parking requirements as well. He stressed that economic reasons are not the criteria necessary for justifying the relief to grant this variance to convert this single- family house.

It was moved by Hurley, seconded by Post that this request for a variance to convert a single family to a two family be denied because it is presently an undersized non-conforming lot that does not meet the 5,000 Square foot of lot area for each apartment, it's only 1/3 of the required square footage, this relief cannot be granted without substantial detriment to the public good .

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

Ayes: 6, Nays: 0.

Motion carried.

Case #2004:25 – James York, 130 Sunrise Terrace, Washington, NJ, Bk. 77.02, Lot 7

This application is filed for the purpose of constructing a fence on this property.

In the Zoning Officer's Refusal of Permit this request is hereby denied for noncompliance with the provisions of Section(s) 94-47 of the Municipal Zoning Ordinance for the following reasons: Fences and walls shall not exceed four (4) feet in height in the front yard and must be fifty (50%) percent open.

Attorney Ours reviewed the notices of service and affidavit of publication and determined that the Board had jurisdiction to hear this application.

The Oath was administered to Mr. James Yorke by Attorney Ours.

Mr. Yorke testified that he wanted to erect a fence around his property for privacy and security for this family and children. Due to the unusual configuration of his lot a portion of his fence was going to encroach into the front yard.

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

Discussion ensued with the applicant on arriving with a compromise on the location of the fence.

Attorney Ours reviewed the criteria necessary for the granting of this variance.

It was therefore moved by Mangiacotti, seconded by Woykowski that a variance be granted to Mr. Yorke for the installation of a six (6') foot privacy fence as agreed by the Board due to the unusual configuration of this lot, said fence to be 12' back on the southwesterly side of the house, this variance can be granted without substantial detriment to the public nor will it impair the intent and purpose of the zoning plan.

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

Ayes: 6, Nays: 0.
Motion carried.

CASE #2004:21 – Catholic Charities

Discussion followed and the attorney clarified the second to last paragraph in the content of the Catholic Charities resolution to the satisfaction of the Board. The Resolution determines that the staff who supervises the boys in the group home are not residents, but are paid staff, therefore they are not family members as defined in the Borough Zoning and Land Development ordinance.

It was therefore moved by Post, seconded by Eller that this resolution be adopted as approved at the November meeting for an interpretation of the Borough's Zoning Ordinance denying the conversion of offices for Catholic Charities to a group home.

Roll Call: Eller and Post – 2 Ayes: Nays: 0. Abstained: 0.

Hearing no further business to appear before the Zoning Board, it was moved by Hurley, seconded by Post that the meeting be adjourned at 10:35 PM.

Ayes: 6, Nays: 0.
Motion carried.

Respectfully submitted,

Frank Mangiacotti, Secretary