

**Washington Borough
Board of Adjustment Minutes
February 22, 2005**

Prior to the Roll Call the **Oath** was administered to **Anthony Kramer** by Stuart Ours, Esq., Board Attorney prior to Roll Call.

Roll Call: Hurley, Cioni, Kramer, Mangiacotti, Post, Schlader, Semonche and Eller – 8 Present.

Absent: Nienstedt – 1 Absent.

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

Chairman Eller led the members of the Board in the flag salute and read the Open Public Meetings Act into the Record.

MINUTES:

Reorganizational Meeting – January 25, 2005

Chairman Eller entertained additions or corrections to the minutes of the reorganizational meeting held January 25, 2005.

Hearing none, it was moved by Schlader, seconded by Hurley that the minutes of the reorganizational meeting held January 25, 2005 be approved as presented.

Roll Call: Hurley, Semonche, Schlader, Eller, Cioni and Mangiacotti –
Ayes: 6, Nays: 0. Abstained: Kramer and Post – 2.

Motion carried.

RESOLUTIONS:

Case #2004:23 – Vincent Roland, 33 Lambert Street

It was moved by Hurley, seconded by Cioni that this resolution be adopted as approved at the January meeting for the construction of a 20' x 24' foot deck with one half of the deck enclosed as a sunroom.

Roll Call: Mangiacotti, Cioni, Eller and Hurley – Ayes: 4,
Nays: 0. Abstained: Post, Schlader, Semonche and Kramer – 4.

Motion carried.

Case #2005:1 – Dale & Cathleen Nauta, 318 E. Washington Ave.

It was moved by Semonche, seconded by Hurley that this resolution be adopted as approved at the January meeting for the erection of a free-standing sign.

Roll Call: Hurley, Semonche, Schlader, Eller, Mangiacotti and Cioni –
Ayes: 6, Nays: 0 – Abstained: Kramer and Post – 2.

Motion carried.

Prior to hearing these cases the roll of the Alternate was discussed. Mr. Cioni is Alternate #1 and Mr. Kramer is Alternate #2. Mr. Cioni, who is Alternate #1 will take an active part in both applications, while Mr. Kramer listens to the testimony but will have not vote in either case. One regular member of the Zoning Board is absent, Mr. Nienstedt, thereby Alternate #1 will hear and have a vote in these cases with the regular members of the Board. If there had been a second absentee, then Mr. Kramer as Alternate #2 would take this person's place.

The Board stressed that it is still necessary for the alternates to attend because it's not always known if a regular member will be absent or if a case is carried until the following month and another member is absent, then the alternates can take part in the application and vote.

APPLICATIONS:

Case #2005:2 – Alcan Packaging, 191 Rt. 31, North, Washington, NJ 07882, Blk. 37, Lot 1 (Represented by Thomas E. Stover, Esq.)

This application is filed for the purpose of replacement of the sign in front of the premises. The size of the sign is 6' x 12'.

In the Zoning Officer's Refusal of Permit this request is denied for noncompliance with the provisions of Sections(s) 94-62 C1 & C4 of the Municipal Zoning Ordinance for the following reasons:

No free-standing sign is placed in the front half of the setback required for the building and in no case shall a sign exceed 10' in height.

Attorney Ours reviewed the notices of service and affidavit of publication and found everything to be in order for the Board to have jurisdiction to hear the application.

Thomas Stover, Esq. introduced the Plant Engineering Manager who will be giving testimony on behalf of Alcan for the erection of a new sign to replace the existing sign. The sign will be 6' x 12' with a six (6') foot clearance from the ground making the actual height of the sign 18' high. Due to the configuration and topography of the area in which the sign must be placed the sign needs to be this size and height. The height will create better visibility to gain entrance into the plant.

Mr. Douglas Jerman, Plant Engineering Manager was administered the Oath by Board Attorney, Stuart Ours. Mr. Jerman stated his educational background for the benefit of the Board. Alcan has purchased the property and would like a new sign. Mr. Jerman described the property in question and the need for the size and height of the sign for safety issues and visibility. It is extremely difficult to see the entrance of the plant because of the topography of the site with a high bank concealing the actual building.

Exhibits were entered into the record marked A-1 which depicts a map of the site, A-2 pictures of the site and A-3 a diagram of the sign itself.

Board member Semonche noted for the record as a point of information that there have been accidents in the vicinity of the entrance to the plant over the past twenty-seven years.

Chairman Eller noted that logically the sign should be located where they propose it as this is the entrance to the plant. The plant employs 450 people and manufactures cosmetic products.

Board member Schlader was concerned with the size and height of the sign and whether in fact it would withstand heavy winds. The lighting was also discussed and whether it would affect any residents in the area. The Board also noted that there was a large tree in the vicinity of where the sign would be that affects visibility. They suggested that it be removed for safety reasons to provide better visibility.

Chairman Eller entertained questions or comments from the audience. There was no one in the audience concerning this application.

Attorney Stover summarized the testimony given for the board members citing the hardship due to the unusual shape and size of the lot, the safety issues and the limited frontage where the entrance to the plant is. The sign itself will not detract from any other signs in the immediate area.

Attorney Ours outlined the criteria necessary to grant this variance for the sign. The property is located in the Industrial Zone.

Board discussion ensued at which time a motion was made by Schlader, seconded by Post that a variance be approved for Alcan Packaging to construct a sign 6' x 12' free-standing sign, 6 foot off the ground giving the sign a height of 18' with internal lighting and adequate supports to withstand heavy winds; this variance can be granted without substantially impairing the intent and purpose of the zone plan and it will not be a detriment to the public good, rather it will provide safety for ingress and egress to the plant. For further safety an additional condition was imposed that the tree at the entrance to the plant be removed also.

Roll Call: Mangiacotti, Cioni, Eller, Post, Schlader, Semonche and Hurley –
Ayes: 7, Nays: 0. Abstained: Kramer.

Motion carried.

Case #2005:4 – West Washington Avenue Associates, LLC, 13 Cornish Street, Washington, NJ, Blk. 98, Lot 8.;01 (Represented by Rosemary Stone-Dougherty, Esq. – Johnson & Johnson)

This application is filed for the purpose of converting a current single-family dwelling into a two-family dwelling.

In the Zoning Officer's Refusal of Permit this request was denied for noncompliance with the provisions of Section(s) 94-77 B 5 of the Municipal Zoning Ordinance for the following reasons:

Every structure housing more than one family shall have a minimum of 5,000 square feet per family unit.

Attorney Ours reviewed the notices of service and affidavit of publication and found everything to be in order for the Board to have jurisdiction to hear the application.

Attorney Dougherty introduced Richard Gascoyne, Architect, 546 Ridgewood Rd., Maplewood, NJ for expert testimony. Mr. Gascoyne stated his educational background and experience. He was a licensed architect in the State of New Jersey.

Drawings were marked into evidence as A1 thru A3 depicting the drawings of what the applicant proposed, the site plan and survey. The applicant plans on constructing a second story addition to the structure and to convert the ground level of the building into an apartment. The second story addition will be set back 7' in order to meet the prevailing setback of 20'. The foyer or entrance to both units will be on the right side of the building. The building is located in an R-3 Zone which permits two and three family homes.

Mr. Gascoyne and Attorney Dougherty requested that the Board interpret Section 94-73.1 of the Zoning Ordinance. It was the architect's interpretation of this section and the attorney's legal opinion that a variance was not required. The Board could interpret this section to determine that their client's meet the criteria of this section of the ordinance to convert this residence into a two family without having the Board approve a variance. If the Board did not consider the interpretation in their favor, they would proceed with requesting a variance.

Chairman Eller noted that the Zoning Officer's Refusal indicates that this property was the conversion of a business to single family, to a two family. The minimum requirements for a two- family is 5,000 square feet per family. The non-conforming use, the business, has expired more than twelve (12) months.

Attorney Dougherty indicated that her client purchased this property as a residential dwelling and the zone it is located in permits a two family dwelling.

Attorney Ours remarked that he thought Section 94-73.1 applied to a vacant lot?

Attorney Dougherty respectfully disagreed with the zoning officer's decision and noted that this section of the zoning ordinance does apply to this parcel and a two-family structure is allowed in this zone.

Councilman Mangiacotti questioned whether this lot would support a two-family dwelling?

Discussion ensued by the Board.

Attorney Ours advised the Board that they would have to make a decision as to whether they wished to rule of this matter as an interpretation of the zoning ordinance which would allow the applicant to proceed without the granting of a variance.

It was therefore moved by Mangiacotti, seconded by Hurley that the Board rule that Section 94-73.1 is applicable to this case and that no variance is required for the conversion of this property from a single family to a two-family house and that further the zoning officer be directed to issue a zoning clearance so that a building permit can be applied for.

Discussion: Attorney Ours explained the various functions that the Zoning Board has to consider. This Board has the responsibility of hearing zoning appeals and interpreting the various sections of the Code. Their role is of listening to the testimony and making a decision on the facts that are presented to them.

Roll Call: Mangiacotti, Eller, Hurley, Cioni and Semonche – Ayes: 5,
Nays: Schlader and Post – 2. – Motion carried.

Some of the residents that were in the audience were disappointed that they were not given the opportunity to voice their concerns and questions regarding this case. It was explained that because the Board interpreted the zoning ordinance, rather than hearing the appeal there was no public hearing required.

The resident who resided adjacent to this property at 11 Cornish Street stated that some of the facts stated this evening were not accurate. There is no yard with this property. The entire open space around the property is concrete. Where are the children going to play if there are children residing at this property? This property owner felt that the residents were not given the opportunity to speak and in fact they were very disappointed that they were not allowed to voice their opinions.

COMUNICATIONS:

The following communications were entered into the Record:

- 1) New Jersey Planner and
- 2) Thomas Hampshire, Esq., RE: Catholic Charities

The communications were acknowledged, received and filed. It was noted for the record that Catholic Charities has withdrawn their appeal.

Hearing no further business to come before the Board, it was moved by Post, seconded by Semonche that the meeting be adjourned.

Ayes: 7, Nays: 0.
Motion carried.

Respectfully submitted,

Frank Mangiacotti, Secretary

