

**BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY  
BOARD OF ADJUSTMENT MINUTES  
MARCH 28, 2006**

Roll Call: Hurley, Mangiacotti, Cioni, Kramer, Post and Eller – 6 Present.

Absent: Nienstedt and Semonche – 2 Absent.

Vacancy: One (1) Alternate

Also Present: Stuart Ours, Esq., Board Attorney  
Robert Miller, C.M.E., Borough Engineer  
Linda L. Hendershot, Clerk

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

**MINUTES:**

**Regular Meeting – February 28, 2006**

Chairman Cioni entertained additions or corrections to the minutes. Some minor corrections were noted for the Clerk to correct.

It was therefore moved by Eller, seconded by Hurley that the minutes of the regular meeting held February 28, 2006 be approved as corrected.

Roll Call: Hurley, Eller and Cioni – Ayes: 3 – Nays: 0.  
Kramer, Post and Mangiacotti – Abstained: 3.  
Motion carried.

**RESOLUTIONS:**

**Case #2006:2 – Van Cleef Enterprises – Canal Run**

Attorney Ours noted that the resolution could be considered for adoption conditioned upon clarification of the COAH requirements which may be subject to clarification or change.

It was therefore moved by Hurley, seconded by Eller that the resolution be adopted as approved at the February meeting granting preliminary site plan approval to Van Cleef Enterprises with conditions and clarification of the COAH requirements.

Roll Call: Hurley, Eller and Cioni – Ayes: 3. – Nays: 0.  
Kramer, Post and Mangiacotti – Abstained 3.  
Motion carried.

**Case #2006:4 – Leonides Rosado, 93 S. Lincoln Avenue**

It was moved by Eller, seconded by Hurley that the resolution be adopted as approved at the February meeting granting approval for the construction of a front porch.

Roll Call: Hurley, Eller and Cioni – Ayes: 3. – Nays: 0.  
Kramer, Post and Mangiacotti – Abstained: 3.  
Motion carried.

**OLD BUSINESS:**

**Case #2006:3 – JB Properties, LLC, 50 Prosper Way, Washington, NJ, Blk. 50, Lot 3** (Represented by Alan Y. Lowcher, Esq.)

This application is filed for the purpose of constructing a single family residential dwelling on an existing undersized lot.

In the Zoning Officer's Refusal of Permit this request was denied for noncompliance with the provisions of Section(s) 94-76 B (5) for following reasons: Lot area and lot width. This lot is located in the R-2 Zone.

Attorney Ours noted that this case was carried from the previous meeting.

Mr. Lowcher introduced Elizabeth Calhoun, a professional planner from the firm of Mace Engineers who would be offering expert testimony in reference to this case.

The Oath was administered to Elizabeth Calhoun and Barry Rubin, owner of the property.

Mr. Rubin testified as to the type of house he was proposing to construct on the lot in question. He testified that he planned on building either a colonial or bi-level type of home with a 40' rear yard setback a 30' front yard setback with two 6' side yards. The house would have anywhere from 1,800 to 2,000 square feet. This house would fit in the neighborhood. He testified that he did try to purchase additional property to make it a conforming lot and he was refused. He was also refused by the Borough who has two adjacent lots to his.

Several exhibits were marked into evidence for the record.

Ms. Calhoun testified that this lot is an undersized lot with a lot area of 5,010 square feet and has a lot frontage 50'. The zone requires 75' of frontage and a rear yard setback of 40' is required. The applicant can provide a 30' front yard setback. She testified that many of the lots in this particular area are undersized lots and the house Mr. Rubin is proposed would fit in with the mix of the neighborhood.

Ms. Calhoun indicated that this lot has been a dumping ground for the area and the construction of a house would alleviate this problem and it would be another tax ratable for the Borough. It will not be a detriment to the public nor will it impact the intent and purpose of the zone plan. There are utilities available to this site. Many of the adjacent properties have less than the required 40' setback. The ordinance permits a reduction of the side yard requirements.

Chairman Cioni felt that some of the trees should be retained for aesthetics.

Chairman Cioni entertained testimony from the audience.

Lou Ann and David Cox, 35 McKinley Avenue were opposed to any home being built on this property as it would create more drainage problems for them on their property. They felt there was a wetlands issue on this site. They pointed out that there is an old foundation on the site existing. They would prefer that the lot remain vacant. They alleged that the property is not for Mr. Rubin. He is only going to turn around and sell it. Mr. Cox testified that most of the lots in this area are at least 8,700 Square Feet.

Documentation was entered into evidence as an exhibit which shows there are no wetlands on this site.

Mr. Lawrence Kenny, 32 Gibson Place lives right next door to this property. He testified that there will be no trees when the house is constructed. There is water run-off problems in this area that will be compounded.

Ms. Calhoun noted that there is an available storm sewer there that some of the water could be diverted. Sump pumps could be installed and could be tied into the storm sewer.

Mr. Cox noted that this house would be higher than theirs and water will run onto their property.

The Board discussed the water issues and was concerned that if a home was placed on this site would it increase the water problem? The engineer noted that something could be done on this property that would not create a drainage problem in the area.

Mr. Bescherer, Zoning Officer noted that there is a water problem and an existing partial foundation is on the property that was plowed over approximately three years ago.

Attorney Lowcher noted that Mr. Rubin will be improving the property in question and alleviating this problem.

Attorney Ours reviewed the criteria necessary for the granting of this variance for the Board's consideration.

It was therefore moved by Eller, seconded by Hurley that a variance be granted to the applicant to construct a single family home with a 30' foot front yard setback, this variance can be granted without substantial detriment to the public good given that the lot will be cleaned up and a house constructed on it. This variance is subject to conditions that all the roof and basement drains be directed to the storm drain in the street, the applicant will make application for a grading plan to be approved by the engineer prior to filing for a building permit and the applicant will retain as many trees as possible during the construction of this home to provide adequate buffering from the neighbors.

Discussion: Board member Eller questioned what Council's reasoning was on not selling additional land to Mr. Rubin? These two lots may be considered for Habitat for Humanty. Mr. Eller requested that the motion be amended to include the filing of a driveway permit.

Roll Call: Kramer, Hurley, Eller and Cioni – Ayes: 4, Post and Mangiacotti – 2 Nays.

Motion carried.

**Case #2006:5 – New Cingular Wireless PCS, LLC, 91 Route 31, North, Washington, NJ, Blk. 37, Lot 3** (Represented by Christopher Quinn)

This application is filed for the purpose of preliminary and final site plan approval for the placement of twelve (12) telecommunication antennas on an existing 150' monopole. In addition to the site plan the applicant is seeking a use variance, height variance and front and rear yard setback variance.

Attorney Ours reviewed the notices of service and affidavit of publication and found everything to be in order. The Board has jurisdiction to hear this case.

Testimony was heard from several expert witnesses, Shariq Ashfaq, Radio Frequency Engineer, Bahman Izadmehr, P.E. and James Dowling, P.P. All were administered the Oath.

Mr. Quinn indicated that revised plans will be submitted to address the engineer's comments in his review of the application.

A motion was made by Post, seconded by Kramer approved their request for waivers on the items to be revised on the map and deem the application complete to proceed with the case.

Roll Call: Kramer, Hurley, Post, Eller, Cioni and Mangiacotti.

Ayes: 6, Nays: 0.  
Motion carried.

The variances that were required were outlined. A use variance is required because cell towers are not permitted in any zone in the Borough. A height variance is required for the location of the antennas on the monopole and a front yard setback and a rear yard setback for an accessory structure to locate their equipment.

The antennas proposed are twelve and they will be located at 110 foot on the existing 150' monopole. In view of all antennas previously approved by four other users, Cingular will be erecting stiffeners to accommodate these additional antennas. This is the fifth carrier and they will be at the lowest height on the monopole. The equipment cabinet will be 10' x 25' in size. The actual lot is 75' x 10' or 7,500 Square Foot. They require the rear yard setback because this is the only viable location for the equipment cabinet 5' 4" instead of the required 8' rear yard setback.

There were no comments from the audience.

Attorney Ours outlined the criteria necessary for the granting of the necessary variance and it was deemed that this application is a minor site plan.

It was moved by Hurley, seconded by Kramer that the Board grant a use variance for the construction of 12 antennas at a 110' height on the existing monopole, plus the location of the necessary equipment cabinet for these antennas as shown on the site plan, a height variance be approved to permit them to exceed the height requirement to erect these antennas, approval of the front and rear yard setbacks due to the location of the equipment, approval of the minor site plan subject the necessary revisions noted in the engineer's report, this variance can be granted without substantial detriment to the public good due to the isolated location off Rt. 31 and there is no potential health hazard to the public.

Roll Call: Mangiacotti, Cioni, Eller, Post, Hurley and Kramer.

Ayes: 6, Nays: 0.  
Motion carried.

**Case #2006:6 – Douglas R. Bloom, 12 Valley View Terrace, Washington, NJ, Blk. 43, Lot 18**

This application is filed for the purpose of expanding the driveway apron to twenty (20)' feet.

In the Zoning Officer's Refusal of Permit this request is hereby denied for noncompliance with the provisions of section(s) 94-53 K10 of the Municipal Zoning Ordinance for the following reasons: The maximum size of the drive apron shall be fifteen (15') feet.

Attorney Ours reviewed the notices of service and affidavit of publication and noted that everything was in order. The Board had jurisdiction to hear this case.

The Oath was administered to Mr. Bloom.

Mr. Bloom testified that he wished to widen his driveway entrance to twenty (20') feet for easier access to his property and to prevent him from moving one of his vehicles to accommodate using the other vehicle. The existing apron on the property eleven (11') foot.

The Board discussed Mr. Bloom's request and they could not justify his reasoning for widening his driveway.

There was no one in the audience interested in this case.

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In view of the fact the Board could not find any special reasons or a hardship for this applicant to widen his driveway a motion was made by Hurley, seconded by Post that this request for a variance be denied based on the lack of evidence to support his request.

Roll Call: Kramer, Hurley, Post, Eller, Cioni and Mangiacotti.

Ayes: 6, Nays: 0.

Motion carried.

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

Ayes: 6, Nays: 0.

Motion carried.

Respectfully submitted,

Frank Mangiacotti, Secretary