

BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY
BOARD OF ADJUSTMENT MINUTES
October 24, 2006

Roll Call: Cioni, Eller, Hurley, Mangiacotti, Nienstedt, Post, Semonche and Truman – 8 Present.

Absent: None

Vacancy: Alternate #1 – One Vacancy

Also Present: Stuart Ours, Esq., Board Attorney
Rudy Bescherer, Zoning Officer
Ann Kilduff, 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 – September 26, 2006

Chairman Cioni entertained additions or corrections to the minutes. Hearing none, it was moved by Eller, seconded by Post, that the minutes of the regular meeting held September 26, 2006 be approved as submitted.

Roll Call: Eller, Hurley, Mangiacotti, and Post –
Ayes: 4, Nays: 0, Abstained: 4
Motion carried.

RESOLUTIONS:

Case #2006:16 – Michael & Trisha Crans – 8 Grant Street

It was moved by Eller, seconded by Hurley, that the resolution be adopted as approved at the September meeting for the construction of a 2nd story addition.

Roll Call: Eller, Hurley, Mangiacotti, Post –
Ayes: 4, Nays: 0, Abstained: 4
Motion carried.

Case #2006:17 – Steven Black – 182 W. Washington Avenue

It was moved by Eller, seconded by Post, that the resolution be adopted as approved at the September meeting for the construction of a deck.

Roll Call: Eller, Hurley, Mangiacotti, Post –
Ayes: 4, Nays: 0, Abstained: 4
Motion carried.

Board of Adjustment Minutes
October 24, 2006

Case #2006:18 – George & Diane Cousineau – 88 Alvin Sloan Avenue

It was moved by Eller, seconded by Post, that the resolution be adopted as approved at the September meeting for the construction of a deck.

Roll Call: Eller, Hurley, Mangiacotti, Post –
Ayes: 4, Nays: 0, Abstained: 4

Motion carried.

APPLICATIONS:

Case #2006:19 – Susan McArdle – 31 Nunn Avenue – Block 97.03 Lot 5 – R2 Zone

This application is filed for the purpose of paving and expanding a driveway and parking area.

In the Zoning Officer's Refusal of Permit this request is denied for noncompliance with the provisions of Section(s) 94-18 A2 and 94-53 K2 of the Municipal Zoning Ordinance for the following reason(s): A zoning permit shall be obtained prior to commence of any activity and no driveway shall be located less than 5 feet from the perpendicular extension of the property line to the curb.

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 application.

The Oath was administered to Susan McArdle for her testimony.

Ms. McArdle stated she was not aware she needed a permit before work began. The driveway is already paved and sealed. Ms. McArdle stated that her gravel driveway had spread over time. When she recently had it paved, she had the driveway cut back to keep it on her property. She also stated that the fence on her property is four feet in from the boundary line.

Mr. Post asked if the driveway is now completely on her property line. Ms. McArdle replied that it is.

Mr. Eller asked Ms. McArdle if she would remove the gravel and plant grass if approved. He feels that since her driveway spread onto her neighbor's property, she should attempt to repair it. Ms. McArdle replied that she would replace the gravel on her property with grass, but her neighbors had asked to have the gravel that was removed during paving replaced. She stated that her neighbors have not used that area as a driveway in 18 years.

Chairman Cioni asked if the driveway is 12' 3" from the house at the closest point. Ms. McArdle replied yes.

Chairman Cioni noted that there was no one present in the audience to ask any questions of the applicant.

Hearing no further discussion from the Board, a motion was made by Eller, seconded by Post, that the Board approve Susan McArdle's request to pave and expand a pre-existing driveway and parking area due to the fact that the paving of this driveway will not be a detriment to the neighborhood and it will not substantially impair the intent and purpose of the zone plan.

Roll Call: Eller, Hurley, Mangiacotti, Nienstedt, Post, and Semonche
Ayes: 6, Nays: 0, Abstained: 2

Motion carried.

Board of Adjustment Minutes
October 24, 2006

Case #2006:20 – Erin & Andrew Noreen – 19 Lambert Street; Block 2.11 Lot 40 R1C Zone

This application is filed for the purpose of constructing a 12' x 26' deck.

In the Zoning Officer's Refusal of Permit this request is denied for noncompliance with the provisions of Section(s) 94-75 B4 of the Municipal Zoning Ordinance for the following reason(s): 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 found everything to be in order. The Board has jurisdiction to hear this application.

The Oath was administered to Erin and Andrew Noreen for their testimony.

Mrs. Noreen explained to the Board that they have a 40' rear yard that is elevated approximately 8'. They currently have a walk-out basement, but would like to exit their kitchen onto a deck. Mr. Post noted the property goes downhill after the proposed deck.

Mr. Semonche asked the Noreens if they would have any problem decreasing their deck to 10'. He explained that if past applicants in their zoning area had houses that faced back yards, they were asked to decrease their plans for a 12' deck down to 10'. Mrs. Noreen stated she would like to maintain their requested deck size. She explained that the footings are already in because there was some confusion with the permit being approved. The holes are dug and covered, but no posts have been put in.

Mr. Eller noted that their neighbors didn't have decks, only the landing and step put in by the builder. He also would like to see the deck size cut down to 10' because of the cluster zoning.

Chairman Cioni asked if the rear yard set back was exactly 40'. Zoning Officer Rudy Bescherer answered that it is 40' 2". Mr. Cioni asked if they had a fence. Mrs. Noreen stated that they don't, but their neighbors do.

A picture of surrounding back yards (Exhibit A1) was passed around and discussed.

After further discussion, the Noreens agreed to amend their deck plans from 12' to 10' in width.

Chairman Cioni noted that there was no one in the audience with any questions of the applicant.

Hearing no further discussion from the Board, a motion was made by Semonche, seconded by Post, that the Board allow Erin and Andrew Noreen to construct a 10' x 26' deck on their property. The construction of this deck will not be a detriment to the neighborhood and it will not substantially impair the intent and purpose of the zone plan.

Roll Call: Eller, Hurley, Mangiacotti, Nienstedt, Post and Semonche –
Ayes: 6, Nays: 0, Abstained: 2
Motion carried.

Board of Adjustment Minutes
October 24, 2006

Case #2006:21 – Edward France – 11 Vannatta Street; Block 81.01 Lot 4 B2 Zone

This application is filed for the purpose of identifying this property as a two family dwelling.

In the Zoning Officer's Refusal of Permit this request is denied for noncompliance with the provisions of Section(s) 94-81 of the Municipal Zoning Ordinance for the following reasons: two family dwellings are not a permitted use in this zone.

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 application.

The Oath was administered to Edward France for his testimony.

Mr. Ours asked Mr. France how long he owned the property and if he lived there. Mr. France stated that he has been the owner since June 2005. The building consists of two apartments. He resides in the ground level apartment and rents out the 2nd story. Mr. France stated that a neighbor told him the building was either a 2-family dwelling or a 1-family and a business since the 1950's. He bought it as a 2-family dwelling. When he went to borrow money to do repairs he needed to get clarification the building was indeed a 2-family establishment. The Zoning Officer told him it was not an approved 2-family dwelling. There were no complications regarding the 2-family status when he purchased the building so he didn't know it would be an issue.

Chairman Cioni asked Mr. France if the surrounding homes are 2-family dwellings. Mr. France replied that the street is a mixture of 1 and 2-family dwellings.

Zoning Officer Rudy Bescherer was sworn in for a history of the property. Mr. Bescherer stated that in the 1960's the house was a single family home. In 1984 there was a zoning application for a 2-family conversion and a deck. The application was amended to take out the 2-family conversion and keep the deck. In 1986 the Tax Assessors records show the property as a 2-family dwelling. Therefore, between 1984 and 1986 the owners knew they needed a variance but converted the dwelling illegally. It has been a 2-family dwelling ever since. Mr. France bought the property from owners who were not the owners between 1984 and 1986.

Mr. Semonche asked if the property has always been in a B2 Zone. Mr. Bescherer stated he wasn't sure and there is no way to tell. It was a B2 Zone at the time of conversion.

Mr. Semonche asked if the Board would be setting precedence if the variance was granted. Mr. Ours replied that for each D-variance, the Board is required to find if special reasons exist for granting the variance, for example, a victim of fraud and misrepresentation.

Mr. Eller asked how many cars are on the property. Mr. France replied that there are two cars. There is an attached garage used for automobiles and storage.

Mr. Eller stated he doesn't like that the dwelling was converted illegally, but would see having to put it back to a one family as a hardship. This was done 20 years ago and has never been a problem.

Chairman Cioni stated he is concerned of the precedence the Board would be setting should a variance be granted. Other people in this situation would then have to come before the Board for a variance.

Board of Adjustment Minutes
October 24, 2006

Mr. Post feels you can't penalize Mr. France for buying a home. He found out it was illegally converted while conducting his business correctly.

Mr. Hurley stated the 2-family house is already there and it is not a problem. He feels each case should be addressed as it comes. Mr. France did nothing wrong and is making improvements to the property.

Ms. Truman asked if the property is appraised as a 2-family home. Mr. France replied that it is.

Chairman Cioni noted that there was no one in the audience with any questions of the applicant.

Hearing no further discussion from the Board, a motion was made by Hurley, seconded by Semonche, that the Board allow Mr. France to continue the use of the dwelling on his property as a 2-family. Mr. France bought this property in good faith and it would not be a detriment to public good to continue use as a 2-family dwelling. It has been on the tax map as a 2-family dwelling since 1986.

Roll Call: Eller, Hurley, Mangicotti, Nienstedt, Post and Semonche –
Ayes: 6, Nays: 1, Abstained: 1

Motion carried.

COMMUNICATIONS:

The minutes from the Re-Development Committee's September 6th meeting and the New Jersey Planner were duly noted.

REPORTS:

There were no reports at this meeting.

REMARKS:

Mr. Eller commented on the Monroe Street driveway that was discussed at a previous meeting. He noticed the back end of a truck hanging onto the street. He feels it is unsafe and encroaches on the property line. The Board would like clarification from Rudy Bescherer at the November meeting.

Chairman Cioni commented on the Serelis property. He stated that Serelis was willing to tear down the structure and would like the Board to send a letter to Council regarding this. He feels it is a detriment to the community and an eyesore. Mr. Ours stated that is up to the town to do this. It is not in the Board's jurisdiction. The Board Members were not in favor of sending a letter to Council.

Hearing no further business to come before the Board, a motion was made by Hurley, seconded by Post, that the meeting be adjourned at 9:48 pm.

Ayes: 8, Nays: 0.
Motion carried.

Respectfully submitted,

Frank Mangiacotti, Secretary