

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

Roll Call: Semonche, Cioni, Eller, Hurley and Nienstedt – 5 Present.

Absent Kramer, Mangiacotti and Post – 3 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:

Organizational Meeting – January 24, 2006

Chairman Cioni entertained additions or corrections to the minutes of the organizational meeting held January 24, 2006.

Corrections were noted by the Clerk on Pages 6, 7 & 10. It was therefore moved by Eller, seconded by Semonche that the minutes of the organizational meeting held January 24, 2006 be approved as corrected.

Roll Call: Nienstedt, Hurley, Semonche, Eller and Cioni -

Ayes: 5, Nays: 0.
Motion carried.

RESOLUTIONS:

Case #2006:1 – Tracy Fazzolari, 253 Carlton Avenue

It was moved by Semonche, seconded by Nienstedt that this resolution be adopted as approved at the January meeting approving the construction of a front porch at the location of 253 Carlton Avenue.

Roll Call: Cioni, Eller, Semonche, Hurley and Nienstedt.

Ayes: 5, Nays: 0.
Motion carried.

Chairman Cioni deviated from the order of business to discuss **Case #2006:3 – JB Properties.**

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) 94-73.1 of the Municipal Zoning Ordinance for the following reasons: Any nonconforming lot must have at least 2/3 of the minimum lot area of the R-2 Zone.

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

Attorney Lowcher was present representing his client and requested that this application be carried until the March meeting. He advised the Board that the Borough may want to sell his client some additional land that is adjacent to this lot. If his client is able to purchase this additional land a variance would no longer be necessary.

A motion was made by Eller, seconded by Hurley that Case #2006:3 be tabled for the March 28th meeting in light of the new information and that all interested parties be so advised and that no additional notices shall be required to be served to the public.

Roll Call: Nienstedt, Hurley, Semonche, Eller and Cioni.

Ayes: 5, Nays: 0.
Motion carried.

OLD BUSINESS:

Case #2006:2 – Van Cleef Enterprises – Canal Run at Washington Borough, Rt. 31, N., Washington, NJ, Blk. 37, Lot 4, 5 & 6 (Represented by Alan Y. Lowcher, Esq.)

This application is continued from the January meeting for the purpose of continuing discussion on the major site plan to redevelop this property for age restricted housing.

In addition, the current site plan application is being amended to include a minor sub-division. This parcel is part of the preliminary major site plan approval before the Board presently.

Attorney Lowcher, Esq., representing Mr. Van Cleef appeared before the Board to discuss the revised site plan that was submitting addressing the Board's concerns from the January meeting.

Mr. Lowcher noted that a meeting had been held with the Borough Engineer to address the storm water management plan. The building elevation has been changed to the ends of the building and their application has been amended to remove the piece of land that is presently contaminated in order for his client to proceed with the construction of the proposed adult community.

J. Michael Petry, P.E. was present to address the engineer's report of February 24, 2006. Exhibit A-18 was entered into the record for the proposed minor sub-division which has been submitted as part of the packet. A letter was submitted from the Borough's Tax Assessor which confirms that this new lot when sub-divided will be known as Lot 5. Mr. Petry testified that there are three sections or locations of the Morris Canal District that are part of the proposed sub-division or about 20' to 30' into the property.

The applicant will provide the Borough as well as the EPA an easement that will give them access to the property for remediation of the Pohatcong Valley Groundwater Conamination Superfund site as well as emergency access for the Borough's emergency equipment.

Exhibit A-19 was submitted as their proposed landscaping plan. This was accepted by the Board.

The Recreational plan was accepted as well. Due to the type of facility this structure is most of the recreational facilities will be internal with a walking path outside. There will be an indoor pool, an exercise room and recreational rooms for the residents.

The minor sub-division was discussed and the reasoning behind it? It was felt that the contaminated area should be separated from this project in the hopes of turning it over to the Morris Canal Commission or the Borough. A letter was received from the Department of Land Preservation declining Mr. Van Cleef's offer of donating this parcel to them. They have no interest in accepting this donation.

Attorney Ours questioned whether the larger parcel may show any signs of ground contamination. Bob Ellenberger, geologist has done tests of the soil and they have found no contamination on the larger parcel.

The Board discussed the minor sub-division and it didn't make sense from the land use plan to subdivide it. Board member Eller stated that if it is not going to affect the project he didn't want to see the Borough own it and take it off the tax rolls. After extensive discussion Mr. Van Cleef withdrew his application for minor subdivision.

Exhibit A-20 was submitted into evidence which shows the proposed changes to the elevation of the building. Two additional rooms on each end of the building have been designed to handle equipment for the emergency firefighting system. The building façade has been redesigned more to the Board's request from the last meeting. They are adding peaks to the roof to give the building more of a colonial look. The peaks make it necessary for the Board to consider a variance from the required 35' foot height to 50' foot in height.

Exhibit A-21 depicts the drainage and grading plan on the site. Mr. Petry testified that the parcel does not hold any water for long periods of time.

The building entry drive was discussed and each entrance and exit will be 18' wide with a 30' paved width for the road and designed in accordance with the specifications with the NJ DOT, R.S.I. standards. The Fire Department was also consulted as well.

The landscaping plan was discussed and the Board felt that the buffering will be sufficient. No existing trees will be removed and some additional pine trees planted.

Questions were entertained of the Board members.
There were no questions of the Board.

Questions were entertained of the Audience.
There were no questions of the audience.

Testimony was entertained from the audience.

Ryan Dornish, Esq., representing Glen Mayer was administered the Oath for testimony.

Mr. Dornish stated for the record that his client was not be interested in granting any kind of easement or selling any of his property . His client was concerned with the drainage water from this basin on the property that it would not drain onto his client's property. He questioned who would maintain the basin. A performance bond would be posted.

Nancy Chambellan of the Warren County Environmental Commission was administered the oath for testimony. She stated for the record that the Board of Chosen Freeholders would not entertain being given any land that is contaminated. She was opposed to the minor sub-division. She addressed the contaminated site which is approximately three miles wide and 12 miles long. The Environmental Commission has formed a sub-committee to study this issue. This is a major Super Fund site that may take as long as fifteen years to remediate. She addressed the TCA vapors which is similar to radon. She offered the assistance of the Warren County Environmental Commission.

Attorney Lowcher noted that they would welcome any cooperation with cleaning up this site.

Hearing no further remarks from the audience the audience portion was closed.

Engineer Miller addressed his reports and outlined all of the necessary areas that the Board would have to act upon to grant preliminary site plan approval subject to several conditions.

Carl Hintz, the Borough's planner has also reviewed all of the documents filed with the Board of Adjustment.

The following motions were entertained and adopted by the Board:

It was moved by Semonche, seconded by Eller that the Board grant a waiver from Section 94-38C, recreational area based on the plans submitted.

Roll Call: Nienstedt, Hurley, Semonche, Eller and Cioni.

Ayes: 5, Nays: 0.
Motion carried.

It was moved by Semonche, seconded by Hurley that the Board approve the Landscaping Plan as identified on the plans.

Roll Call: Cioni, Eller, Semonche, Hurley and Nienstedt.

Ayes: 5, Nays: 0.
Motion carried.

It was moved by Semonche, seconded by Hurley that a variance from the required height of 35' be approved to 50' to allow for the design of the for the gable ends shown on the building.

Roll Call: Nienstedt, Hurley, Eller, Semonche and Cioni.

Ayes: 5, Nays: 0.
Motion carried.

It was further moved by Semonche, seconded by Eller that the necessary access easements be executed for the EPA and Borough for the purpose of assisting in the environmental clean-up and for emergency services to the site.

Roll Call: Nienstedt, Hurley, Semonche, Eller and Cioni.

Ayes: 5, Nays: 0.
Motion carried.

The applicant will comply with all of the conditions outlined in the engineer's reports dated January 20th and February 24th as discussed at the Board meetings.

A Developer's Agreement shall also be executed prior to final approval of this major site plan.

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It was moved by Hurley, seconded by Semonche that the Board grant a Preliminary Site Plan approval, subject to all of the conditions and motions made by the Board, the execution of a Developer's Agreement, completion of all the remaining items outlined in the engineer's reports and all other outside approvals necessary for the final approval of this major site plan.

Roll Call: Cioni, Eller, Semonche, Hurley and Nienstedt.

Ayes: 5, Nays: 0.

Motion carried.

Engineer Miller was excused at 9:30 PM.

Case #2006:4 – Leonides Rosado, 93 S. Lincoln Avenue, Washington, NJ, Blk. 98, Lot 9 (Represented by James Onembo)

This application is filed for the purpose of enlarging the front porch on this residence to 8' x 11'.

In the Zoning Officer's Refusal of Permit this request was denied for noncompliance with the provisions of Section (s) 94-77 B2 of the Municipal Zoning Ordinance for the following reasons: There shall be a front yard of not less than 20 feet.

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

The Oath was administered to Mr. James Onembo and Mr. Leonides Rosado by Attorney Ours. Mr. Onembo was representing Mr. Rosado.

Mr. Onembo entered into evidence Exhibits A-1 thru A-4 showing a picture of the house and porch in question, houses in the immediate area, the streetscape and the distances from porches to the street line.

Mr. Onembo explained the circumstances which led Mr. Rosado to the Board. Mr. Rosado applied for a building permit to replace his existing porch with a porch that was slightly larger. The state inadvertently gave him a building permit at which time our Zoning Officer placed a stop work order on the construction. The existing concrete porch is still attached to the house and the new porch was constructed over the top which now requires a variance from the 20 feet setback. Mr. Rosado did not intentionally do anything wrong.

Chairman Cioni entertained remarks from the audience. There was no remarks from the audience.

Board discussion followed.

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 Semonche that the Board grant a variance for construction of a new deck 7'8" in depth and 10' wide porch. This variance can be granted without substantial detriment to the public good because there is other porches on adjacent properties which encroach out onto the property line and it will not impair the intent and purpose of the zone plan.

Roll Call: Eller, Cioni, Hurley, Semonche and Nienstedt.

Ayes: 5, Nays: 0.
Motion carried.

Planning Seminar

The Clerk reminded the Board members of the March 18th Planning Seminar at Warren County Vo-Tech. Two additional members, Don Eller and John Nienstedt wanted to be enrolled.

Hearing no further business to come before the Board, it was moved by Hurley, seconded by Nienstedt that the meeting be adjourned at 10:15 PM.

Ayes: 5, Nays: 0.
Motion carried.

Respectfully submitted,

Frank Mangiacotti, Secretary