

BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY
BOARD OF ADJUSTMENT MINUTES
January 23, 2007

Prior to the Roll Call, the **Oath of Office** was administered to **Charles Post** and **Tina Truman**.

Roll Call: Eller, Hurley, Nienstedt, Post, Truman – 5 Present.

Absent: Mangiacotti, Semonche – 2 Absent

Vacancy: Alternates 1 and 2 – 2 Vacancies

Also Present: Stuart Ours, Esq., Board Attorney
Rudy Bescherer, Zoning Officer
Ann Kilduff, Clerk

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

NOMINATIONS OF OFFICERS FOR 2007

It was moved by Post, seconded by Eller, that **Larry Hurley** be appointed **Temporary Chair** to conduct the nominations of Officers for 2007.

Roll Call: Eller, Hurley, Nienstedt, Post and Truman –
Ayes: 5, Nays: 0, Abstained: 0
Motion carried.

Nominations were entertained from the floor for **Chairman**. It was moved by Post, seconded by Nienstedt, that **Larry Hurley** be nominated as **Chairman**.

Roll Call: Eller, Hurley, Nienstedt, Post and Truman –
Ayes: 5, Nays: 0, Abstained: 0
Motion carried.

Nominations were entertained from the floor for **Vice-Chairman**. It was moved by Post, seconded by Truman, that **Don Eller** be nominated as **Vice-Chairman**.

Roll Call: Eller, Hurley, Nienstedt, Post and Truman –
Ayes: 5, Nays: 0, Abstained: 0
Motion carried.

Nominations were entertained from the floor for **Secretary**. It was moved by Post, seconded by Nienstedt, that **Frank Mangiacotti** be nominated as **Secretary**.

Roll Call: Eller, Hurley, Nienstedt, Post and Truman –
Ayes: 5, Nays: 0, Abstained: 0
Motion carried.

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Appointment of the Clerk for the Calendar Year 2007

It was moved by Eller, seconded by Truman, that **Ann Kilduff** be appointed as **Clerk of the Board** for the Calendar Year of 2007.

Roll Call: Eller, Hurley, Nienstedt, Post and Truman –
Ayes: 5, Nays: 0, Abstained: 0
Motion carried.

Appointment of the Board Attorney

The following resolution was moved by Post, seconded by Nienstedt and adopted, reappointing **Stuart Ours, Esq.** as **Board Attorney**:

RESOLUTION – 2007:1

BOARD OF ADJUSTMENT ATTORNEY

WHEREAS, there exists a need for legal services to be rendered to the Washington Borough Board of Adjustment, Warren County, New Jersey; and

WHEREAS, funds for these services are included in the 2007 Budget; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-35, et. seq.) requires that the Resolution authorizing the award of contracts for professional services without competitive bidding must be publicly advertised.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Adjustment members of the Borough of Washington, Warren County, New Jersey as follows:

1. That the Board of Adjustment members are hereby authorized to execute the appointment of **Stuart Ours, Esq.**, as Board of Adjustment Attorney, as outlined in the Local Public Contracts Law because:

The Services to be rendered by the Board of Adjustment Attorney can only be rendered by a person that meets the qualification standards of the New Jersey Supreme Court, and is further subject to the rules and procedures of the Courts of the State of New Jersey and further, the services are of such a qualitative nature as will not reasonably permit the drawing of specifications or the receipts of competitive bids.

A copy of this Resolution shall be published in the Star Gazette as required by law within ten (10) days of its passage.

Roll Call: Eller, Hurley, Nienstedt, Post and Truman –
Ayes: 5, Nays: 0, Abstained: 0
Motion carried.

Resolution Establishing the Attorney's Rates

The following resolution establishing the Attorney's rates was moved by Eller, seconded by Post and adopted.

RESOLUTION - 2007:2

ESTABLISHING RATES – BOARD ATTORNEY

WHEREAS, the Board of Adjustment of the Borough of Washington, pursuant to the authority vested in it by N.J.S.A. 40A:55D-24, and the Board having determined to employ an attorney during the calendar year of 2007.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Adjustment for the Borough of Washington hereby appoints Stuart Ours, Esq., of 196 Belvidere Avenue, Washington, New Jersey as Attorney for the Borough of Washington, Board of Adjustment.

BE IT FURTHER RESOLVED, that the Board of Adjustment of the Borough of Washington, pursuant to the Agreement with the aforesaid Attorney, approves the expenditures of funds at the rate of **\$130.00 an Hour** for his work beyond attendance of the regularly monthly meetings as may be authorized by the Board, the total not to exceed the sum of **\$4,333.00 specifically \$3,833.00** as salary for attending the Board meetings to enable him to become a member of the (PERS) Public Employees Retirement System.

A copy of this Resolution shall be published in the Star Gazette as required by law within ten (10) days of its passage.

Roll Call: Eller, Hurley, Nienstedt, Post and Truman –
Ayes: 5, Nays: 0, Abstained: 0

Motion carried.

Resolution Establishing the Meetings for the Calendar Year of 2007

The following resolution scheduling meetings for 2007 was moved by Eller, seconded by Truman and adopted.

RESOLUTION – 2007:3

OPEN PUBLIC MEETINGS ACT

WHEREAS, pursuant to the Open Public Meetings Act, P.L. 1975, C.231, the Borough of Washington is required to file and post certain notices of public meetings of the Board of Adjustment of the Borough of Washington; and

WHEREAS, among the obligations imposed upon the Board of Adjustment is the obligation to file the said notices with the newspaper of general circulation in the Borough of Washington.

WHEREAS, the Star Gazette is designated as such newspaper; and

WHEREAS, the Schedule of Regular Meetings must be prepared, posted and filed within seven (7) days of the date of the Annual Reorganization Meeting of the Board of Adjustment, **NOW, THEREFORE,**

BE IT RESOLVED, by the Authority aforesaid, that the attached Schedule of Regular Meetings be furnished to any member of the public requesting the same, upon the payment of such person of the sum of \$1.00 to the Borough of Washington, said charge to cover the cost of duplicating the sum and the administrative expense of compliance with the request, all as required by the **OPEN PUBLIC MEETINGS ACT**.

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A copy of this Resolution shall be published in the Star Gazette as required by law within ten (10) days of its passage.

NOTICE

BOARD OF ADJUSTMENT

SCHEDULE OF REGULAR MEETINGS

WASHINGTON BOROUGH, WARREN COUNTY, NEW JERSEY.

(4th Tuesday of Each Month)

January 23, 2007	July 24, 2007
February 27, 2007	August 28, 2007
March 27, 2007	September 25, 2007
April 24, 2007	October 23, 2007
May 22, 2007	November 27, 2007
June 26, 2007	December 17, 2007 *

* Monday Meeting

Re-organizational Meeting: January 22, 2008

All meetings will be held at 8:00 p.m. on the dates listed in the Council Chambers, 2nd Floor, Washington Borough Municipal Building, 100 Belvidere Avenue, Washington, NJ 07882.

Copies of this Schedule are available to the public from the Borough Clerk upon payment of the sum of \$1.00 to the Borough of Washington.

Roll Call: Eller, Hurley, Nienstedt, Post and Truman –
Ayes: 5, Nays: 0, Abstained: 0
Motion carried.

MINUTES:

Regular Meeting – November 28, 2006

Chairman Hurley entertained additions or corrections to the minutes. After a minor change, it was moved by Post, seconded by Truman, that the minutes of the regular meeting held November 28, 2006 be approved as submitted.

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Roll Call: Eller, Hurley, Post and Truman –
Ayes: 4, Nays: 0, Abstained: 1 (Nienstedt)
Motion carried.

RESOLUTIONS:

Case #2006:22 – Joyce and Ruben Lopez – 56 Grand Avenue

It was moved by Eller, seconded by Post, that the resolution be adopted as approved at the November meeting for the construction of a shed and second story addition.

Roll Call: Eller, Hurley, Post and Truman –
Ayes: 4, Nays: 0, Abstained: 1 (Nienstedt)
Motion carried.

Case #2006:24 – Damien McDermott – 7 Carlton Avenue

It was moved by Post, seconded by Truman, that the resolution be adopted as approved at the November meeting for the operation of a window replacement business.

Roll Call: Hurley, Post and Truman –
Ayes: 3, Nays: 0, Abstained: 2 (Eller and Nienstedt)
Motion carried.

APPLICATIONS:

Case #2007:3 – Melissa Williams – 51 Broad Street – Block 95 Lot 20 – OB Zone

This application is filed for the purpose of operating an architectural model business. In the Zoning Officer's Refusal of Permit this request is denied for noncompliance with the provisions of Section(s) 94-82 A of the Municipal Zoning Ordinance for the following reason(s): This type of business is not a permitted use in this zone.

Attorney Ours stepped down due to a conflict of interest and Attorney Jerome Baucom took over. Mr. Baucom 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 Melissa Williams for her testimony.

Ms. Williams explained that the building will be leased to Michael Grillo of Marketing Models. They would like to renovate the exterior by taking the sign down and painting the boards around the windows. The garage door will remain and only cosmetic improvements will be made. On the interior, they would like to renovate the bathroom and add a few walls. Ms. Williams stated they need four parking spaces and have enough spaces for their use. They are a non-retail business, so rarely do customers come to the building. The product is delivered to the customer upon completion. They anticipate deliveries a few times each month.

Ms. Williams stated the lot is 57' x 104' in size. Mr. Eller asked how many parking spots are required for this size lot. Mr. Baucom responded five spots are required. Mr. Eller is concerned since cars will need to be parked one behind the other and since the side street is a one-way street, if the first parked car should need to get out, others cars would block traffic on that street.

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Mr. Michael Gessner of 440 State Route 57 West in Washington was sworn in. Mr. Gessner operated the Auto Parts Store in that location for over 25 years and has always parked in the front. He stated his store was a retail business and parking was never a problem. People parked on Broad Street.

Mr. Michael Grillo of One Rader Road in Great Meadows was sworn in. Mr. Grillo will be the operator of the business. He stated he doesn't want people parking in front of the building as he would like to keep this space open for deliveries or for the occasional client. He feels there is plenty of parking on Broad Street and is willing to purchase monthly parking permits for the Municipal Lot if necessary.

Mr. Eller stated that in regards to parking in front of the building, he would like to see no parking on the property and the curb replaced where there is currently an apron. He would like to have more public street parking with the cost of these changes being incurred by the owner. Mr. Baucom explained that they would need Council's approval for that project.

Mr. Eller stated he would like the building to be aesthetically pleasing. He would also like the first 25 feet of curb painted yellow. Mr. Grillo agreed he would also like to building to look pleasing. Mr. Bescherer stated it is state code that there shall be no parking within 25 feet of an intersection.

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

Mr. Gessner stated the neighborhood is improving with the exception of his building. He is glad to see someone willing to fix the building and sees it as a wonderful opportunity to improve the community.

Mr. Grillo stated noise will be at a minimum. He will be doing mostly assembly and occasionally using a table saw. There is no real noise to be heard by the neighbors. Mr. Eller asked about ventilation. Mr. Grillo stated he will have a window fan, mostly to circulate the air. He would like to take out the air conditioner and add an exhaust fan on the northwest side by the parking lot.

Hearing no further discussion from the Board, a motion was made by Eller, seconded by Nienstedt, that the Board approve Melissa Williams' request to operate an architectural model business due to the fact this property is a pre-existing non-conforming use. The applicant will have less activity on the property and it seems to be a good fit to the neighborhood. Signage will need to conform to the zoning ordinance. No parking shall occur anytime on the easterly side and the first 25 feet from Monroe Street will be painted yellow to conform to state code.

Roll Call: Eller, Hurley, Nienstedt, Post, and Truman
Ayes: 5, Nays: 0, Abstained: 0

Motion carried.

Mr. Baucom stepped down and Mr. Ours continued with the meeting.

Case #2007:1 – Shawki Zakhra – 54-56 N. Lincoln Avenue; Block 21 Lot 1 R3 Zone

This application is filed for the purpose of adding a second driveway opening. In the Zoning Officer's Refusal of Permit this request is denied for noncompliance with the provisions of Section(s) 94-53 K9 of the Municipal Zoning Ordinance for the following reason(s): No more than one driveway opening shall be permitted.

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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 Shawki Zakhra for his testimony.

Mr. Zakhra explained there is a dirt parking area on the side of his house that he would like to pave to make it cleaner. He has a driveway on the W. Johnston Street side where two cars can park front to back. He would like the second entrance on the N. Lincoln Avenue side.

A discussion of the plans took place. Mr. Eller noted that the plans submitted are not accurate as it doesn't show the chimney sticking out onto the driveway. Mr. Zakhra explained the chimney sticks out less than one foot and could be taken down as it is not used. Mr. Eller suggested stopping the driveway at the chimney so as not to accommodate parking for more than two cars. He also does not want the whole yard to be paved causing a water issue where the run-off would go to the neighbor's property.

Mr. Eller feels that approximately 60 feet of the sidewalk is in bad shape and needs to be replaced. Mr. Zakhra feels replacing the sidewalk would benefit the town, not him and would like to see how much it will cost before agreeing to do this project. Mr. Eller stated it would benefit both his and the public's safety. If approved, he would have one year to complete this. Mr. Bescherer explained that Mr. Zakhra would need a street opening permit. At that time he would be given the appropriate specs and the phone number to the Borough Engineer. Chairman Hurley stated the Board is not trying to impose unreasonable conditions, but the sidewalk is in such a state of disrepair that it has become a safety issue. Mr. Zakhra stated he doesn't want to be forced to fix the sidewalk. He would be incurring a bigger expense than just the driveway.

Mr. Post asked if the second driveway was there when he purchased the house. Mr. Zakhra replied that it was.

Chairman Hurley noted that there was no one in the audience with any questions of the applicant. A discussion of the sidewalk continued.

Mr. Ours explained that this is a corner lot with a two-family dwelling. There is not adequate parking space. The Board can issue conditions for the good of the public. Any concrete work would need to be done first before the paving and the driveway can be limited to 30 feet in order to control run-off.

Hearing no further discussion from the Board, a motion was made by Eller, seconded by Post, that the Board allow, with conditions, Shawki Zakhra's request for a second driveway opening. On the W. Johnston Street side, the existing paved driveway shall be no greater than 10 feet wide and 30 feet in depth. Curbing needs to be installed at that point so no car can pass the 30 foot point. The rest of the existing paved area can remain. On the N. Lincoln Avenue side of the property, the entire sidewalk will be rebuilt as per local building codes. North side from South needs to be redone allowing no greater than a 10 foot wide by 30 foot deep driveway with apron conforming to current specs. The sidewalks on N. Lincoln Avenue are to be done before the driveway. Because of the small lot size that is housing a two-family unit, the Board is trying to provide off-street parking that complies with current standards.

The Board provided clarification to Mr. Zakhra as to what is allowed.

Roll Call: Eller, Hurley, Nienstedt, Post and Truman –
Ayes: 5, Nays: 0, Abstained: 0

Motion carried.

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Case #2007:2 – Daniel and Lisa Demeter – 189 Belvidere Avenue; Block 20.03 Lot 1.02 OB Zone

This application is filed for the purpose of operating a preschool. In the Zoning Officer's Refusal of Permit this request is denied for noncompliance with the provisions of Section(s) 94-84 B2 of the Municipal Zoning Ordinance for the following reason(s): the school is located on a lot whose area must exceed one acre.

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 Daniel and Lisa Demeter for their testimony. Mr. John Zaiter, Esq, represented Mr. and Mrs. Demeter.

Mr. Ours stated he reviewed the ordinance and the section cited is not applicable for a preschool. The state statute states that if in an OB Zone which does permit residential uses, the policy permits favor of this use. The site plan application is necessary because there isn't a residential use for this property.

Mrs. Demeter stated they would like to operate a preschool and childcare for children between the ages of two and six. They have been in operation since 2004 in Washington Township off of Route 57 and have outgrown the facility. They now have 60 children registered with 42 children per day due to different programs. They have seven full-time staff members from the hours of 7:00 a.m. and 6:00 p.m. There is no bussing. All but a few children are from the Borough. More space would allow them to provide different types of programs for the children.

Mrs. Demeter described the hours of arrival. She said the times parents will be parked are minimal as the staff greets the children at the door. Entrance will be on the side. Parking in the alley for drop off will not be allowed as it would block the employee parking. The parking lot in rear will lose some space for the playground area, leaving eight spaces for parking. In the past she has seen five parents dropping off at any given time. Mr. Eller asked if the parents pick their children up at the same time. Mrs. Demeter explained that they don't; there are three different timeframes for parent pick-up. Mr. Ours asked if they would need the handicap space in front of the building. Mrs. Demeter feels they need to keep it available.

Chairman Hurley asked if any parents would be onsite and need parking. Mrs. Demeter said they have an open house once a year which can be split into two nights to accommodate parking. Their Christmas show and graduation are both done off-site.

Ms. Truman asked if the playground would be fenced off. Mrs. Demeter replied that it would be. Mr. Eller noted that the Borough Engineer would like the playground turned 90°.

Mr. Eller feels there should be a sidewalk from the back door to the sidewalk on W. Warren Street. Mrs. Demeter agreed and stated she would like to eventually get an awning for that area. Mr. Eller stated that two signs have been requested but only one is allowed. Mrs. Demeter replied she would like to use the old Catholic Charities sign with their information listed on it. She feels one sign will be sufficient.

A discussion took place regarding garbage disposal. The preschool currently has a contract with a dumpster service that they would like to transfer. The Board is concerned with the truck coming to empty the dumpster so close to the playground area. Mrs. Demeter stated they will look into getting an enclosed shed with large garbage cans. They can still have a private service, possibly coming twice per week.

Carol Daugherty of 184 Belvidere Avenue was in the audience to speak on behalf of this project. Ms. Daugherty stated she is very happy to see someone do something positive with this property and feels it will be a welcome improvement to the neighborhood.

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

Hearing no further discussion from the Board, a motion was made by Eller, seconded by Post, that the Board allow Daniel and Lisa Demeter to operate a preschool on this property as it is not a detriment to the neighborhood and it is an inherently beneficial use; however, the following conditions apply: 1) Only one sign is to be installed on property to conform to zoning codes. The sign will be placed in the previously location. 2) The site plan should reflect a sidewalk from the back door to the sidewalk on W. Warren Street. 3) No dumpster is to be on sight. There must be other means of garbage disposal used. 4) The property is required to have seven parking spots on site. 5) As per the Borough Engineer, the site plan should show the handicap space and no parking space on Belvidere Avenue and 6) Relocate the play area on the site plan so it is 90° opposite of what is currently shown. Approval is conditional upon site plan revision approval.

Roll Call: Eller, Hurley, Nienstedt, Post and Truman –
Ayes: 5, Nays: 0, Abstained: 0

Motion carried.

COMMUNICATIONS:

A copy of a memo dated 10/27/06 to R. Sheola from R. Bescherer regarding Borough Code Adoption and/or Updating was received and duly noted.

The NJPO Official Ballot and Winter/Spring 2007 Mandatory Training Program Listing were both received and duly noted.

REPORTS:

There were no remarks at this meeting.

REMARKS:

Zoning Officer Rudy Bescherer explained to the Board how a Township business owner lodged a complaint against a Washington Borough business. Both businesses rent vehicles and the Township owner wanted the Borough business closed. Other businesses in the area also rent vehicles. Mr. Bescherer feels one business can't be closed down without closing the others. The Board agreed with Mr. Bescherer's interpretation.

Mr. Bescherer also advised the Board of applicants bypassing him and coming directly before the Board, leaving himself and the Clerk out of the loop. He would like to make it a requirement to begin the application process with his office. Mr. Ours explained that applicants cannot be required to come to the Zoning Officer before appearing before the Board of Adjustment.

Hearing no further business to come before the Board, a motion was made by Post, seconded by Nienstedt, that the meeting be adjourned at 11:37 pm.

Ayes: 5, Nays: 0.
Motion carried.

Respectfully submitted,

Frank Mangiacotti, Secretary