

BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY
BOARD OF ADJUSTMENT MINUTES
February 27, 2007

Roll Call: Hurley, Mangiacotti, Nienstedt, Post, Semonche, Truman – 6 Present.

Absent: Eller – 1 Absent

Vacancy: Alternates 1 and 2 – 2 Vacancies

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

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

MINUTES:

Regular Meeting – January 23, 2007

Chairman Hurley entertained additions or corrections to the minutes. Hearing none, it was moved by Truman, seconded by Post, that the minutes of the regular meeting held January 23, 2007 be approved as submitted.

Roll Call: Nienstedt, Post, Truman and Hurley –
Ayes: 4, Nays: 0, Abstained: 2 (Mangiacotti and Semonche)
Motion carried.

RESOLUTIONS:

Case #2007:1 – Shawki Zakhra – 54-56 N. Lincoln Avenue

It was moved by Post, seconded by Truman, that the resolution be adopted as approved at the January meeting for the addition of a second driveway opening.

Roll Call: Nienstedt, Post, Truman and Hurley –
Ayes: 4, Nays: 0, Abstained: 2 (Mangiacotti and Semonche)
Motion carried.

Case #2007:2 – Daniel and Lisa Demeter – 189 Belvidere Avenue

It was moved by Post, seconded by Truman, that the resolution be adopted as approved at the January meeting for the operation of a preschool.

Roll Call: Nienstedt, Post, Truman and Hurley –
Ayes: 4, Nays: 0, Abstained: 2 (Mangiacotti and Semonche)
Motion carried.

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Case #2007:3 – Melissa Williams – 51 Broad Street

It was moved by Post, seconded by Truman, that the resolution be adopted as approved at the January meeting for the operation of an architectural model business.

Roll Call: Nienstedt, Post, Truman and Hurley –
Ayes: 4, Nays: 0, Abstained: 2 (Mangiacotti and Semonche)
Motion carried.

APPLICATIONS:

Case #2007:4 – Justin Jewell – 35 Belvidere Avenue – Block 23 Lot 10 – B2 Zone

This application is filed for the purpose of constructing a 12' x 20' car shed. In the Zoning Officer's Refusal of Permit this request is denied for noncompliance with the provisions of Section(s) 94-37 B of the Municipal Zoning Ordinance for the following reason(s): The minimum distance of an accessory building to the property line must be five feet.

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 Justin Jewell for his testimony.

Mr. Jewell provided the Board Members with photos of different views of his property. Attorney Ours asked how he would gain access to this car shed. Mr. Jewell replied he enters his property from behind the building by driving across a gravel driveway which is owned by the adjoining neighbor.

Ms. Truman asked although the car shed is a part-time structure, would it be used full-time. Mr. Jewell replied that it would be. It is listed as a part-time structure simply because it is not a permanent fixture. It would be secured by bolted feet to a currently asphalted area, but there is no foundation.

Mr. Ours stated the applicant is trying to maximize the use of his property. By staying close to the property's edge, it allows Mr. Jewell to entertain in his yard. Placing the structure in the center of the property would not be practical.

Chairman Hurley noted there are two sheds on the property. Mr. Jewell explained that one is his and the other belongs to his neighbor. The back half of the property is his while the front half belongs to his neighbor.

Mr. Post asked where his other vehicle is parked. Mr. Jewell explained that he has a street parking permit. The car he wishes to store in the car shed has been restored. It is currently under a car cover, but feels a car shed would offer more protection.

Chairman Hurley asked if anyone in the audience was present to ask any questions of the applicant. Mr. Mark Mulligan, operating manager and member of 37-39 Belvidere Avenue, L.L.C. was sworn in for his testimony. He stated he will be doing construction to his building in April and has two concerns. He would like to see the car shed erected later than the Spring so it will not be damaged during the construction. He also suggested the Board grant temporary relief, possibly for three years, and at that time Mr. Jewell can decide if he wants to keep the car shed or replace it with a permanent structure. Mr. Mulligan feels if permanent approval is granted, the car shed would have to be moved for maintenance since it will only be one foot off the property line.

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The Board Members discussed the durability and appearance of the structure. Mr. Semonche feels there is no reason to have a permanent structure there and doesn't see the need to make the approval temporary. He noted that there is no legal access to the property, only permissive access by the adjoining property owner. He feels this information should be in the resolution.

Hearing no further discussion from the Board, a motion was made by Semonche, seconded by Post, that the Board approve Justin Jewell's request to place a 12' x 20' portable car shed on his property with the condition it be used to house a car. When a car is no longer stored in the above mentioned car shed, the car shed is to be removed. Use shall also be terminated if access to the car shed is no longer available. Attorney Ours requires this structure to be recorded on the property deed and will supply Mr. Jewell with the proper language for this recording.

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

Motion carried.

Case #2007:5 – Stephen Brzoska – 27 Willow Street; Block 100 Lot 58 - I Zone

This application is filed for the purpose of construction a 12' x 12' shed and a 35' ham radio tower. In the Zoning Officer's Refusal of Permit this request is denied for noncompliance with the provisions of Section(s) 94-37 B and 83 A of the Municipal Zoning Ordinance for the following reason(s): The minimum distance of any accessory building to a property line shall be five feet. Ham radio towers 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 Stephen Brzoska for his testimony.

The Board first discussed the ham radio tower. Mr. Semonche stepped down due to a conflict of interest. Mr. Brzoska provided Mr. Ours with a copy of PRB-1 which states that municipalities can regulate the tower without restricting the operation. He also provided Mr. Ours with a letter from the Federal Communication Bureau for his review.

Mr. Mangiacotti asked what the maximum height for a tower is. Mr. Brzoska replied that the FCC won't get involved unless the tower is greater than 200 feet. Ms. Truman asked if other homes in the Borough have radio towers. Mr. Brzoska replied that they do. Ms. Truman also asked if the neighbors have any problems with the ham radio tower being there to which Mr. Brzoska replied that they do not. Mr. Nienstedt asked the width of the tower base. Mr. Brzoska replied it is a one foot wide triangular base. He stated the tower has been there for fifteen years and that the high voltage sign posted on the tower was put there for fun and has no use.

Chairman Hurley asked for Mr. Bescherer's input. Mr. Bescherer explained that he reviewed the code and called Mr. Ours about this not being a permitted use. He was also concerned with how it is secured to the ground. Mr. Ours stated a permit should have been acquired when erecting the tower to ensure it was installed properly.

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

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Hearing no further discussion from the Board, a motion was made by Mangiacotti, seconded by Nienstedt, that the Board adopt an interpretation of the ordinance as to not include ham radio towers.

Roll Call: Mangiacotti, Nienstedt, Post, Truman, Hurley –
Ayes: 5, Nays: 0, Abstained: 1 (Semonche)
Motion carried.

Mr. Semonche returned and the Board began discussing the shed. Mr. Ours asked if the shed is an extension of the existing garage and if it was there when the property was purchased. Mr. Brzoska replied that it is an extension, but was not there when property was purchased. Mr. Brzoska purchased the property in 1983 and added the shed the same year. It is approximately three feet from the property line and is used for storing pool supplies, garden tools, lawn equipment, bicycles and a workbench.

Mr. Mangiacotti asked if any neighbors have a structure near the garage. Mr. Brzoska replied that they do not.

Hearing no further discussion from the Board, a motion was made by Nienstedt, seconded by Post, that the Board approve Stephen Brzoska's request to leave the 12' x 12' shed butted up against the garage. It has been determined the shed is not a detriment to the neighborhood, including the factory behind his property. There is no one in the audience to speak against having the shed.

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

COMMUNICATIONS:

An EPA handout and revised member list were received and duly noted.

REPORTS:

There were no reports at this meeting.

REMARKS:

Mr. Bescherer informed the Board of an issue with a property on S. Jackson Street. The property owner came before the Board in December of 2004 asking to convert a one-family dwelling to a two-family dwelling. The request was denied because it is an undersized lot. Mr. Bescherer noticed it is now a two-family dwelling and will follow up with the property owners.

Hearing no further business to come before the Board, a motion was made by Post, seconded by Nienstedt, that the meeting be adjourned at 9:28 pm.

Ayes: 6, Nays: 0.
Motion carried.

Respectfully submitted,

Frank Mangiacotti, Secretary