

BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY
BOARD OF ADJUSTMENT MINUTES
June 26, 2007

Roll Call: Durfee, Eller, Hurley, Mangiacotti, Post, Semonche, Truman – 7 Present.

Absent: Nienstedt, Vitalos – 2 Absent

Vacancy: None

Also Present: Jerome Baucom, Esq., Acting Board Attorney
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 – May 22, 2007

Chairman Hurley entertained additions or corrections to the minutes. After a few minor corrections, it was moved by Eller, seconded by Truman, that the minutes of the regular meeting held May 22, 2007 be approved as submitted.

Roll Call: Eller, Mangiacotti, Semonche, Truman, Durfee and Hurley –
Ayes: 6, Nays: 0, Abstained: 1 (Post)
Motion carried.

RESOLUTIONS:

Case #2007:7 – Jack Kriebel – 19 W. Johnston Street

It was moved by Semonche, seconded by Truman, that the resolution be adopted as approved at the May meeting for the construction of a 4' and 6' fence along Cherry Street.

Roll Call: Eller, Mangiacotti, Semonche, Truman, Durfee and Hurley –
Ayes: 6, Nays: 0, Abstained: 1 (Post)
Motion carried.

Case #2007:8 – Jose Cruz – 35 S. Wandling Avenue

Mr. Eller noted some discrepancies between the resolution and the minutes. After a brief discussion the paragraph was rewritten and will be submitted to Mr. Ours for revision. With the changes in mind, it was moved by Eller, seconded by Semonche, that the resolution be adopted as approved at the May meeting for the construction of a 13' x 13' extension to the house and a 15' x 20' deck.

Roll Call: Eller, Mangiacotti, Semonche, Truman, Durfee and Hurley –
Ayes: 6, Nays: 1 (Post), Abstained: 0
Motion carried.

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APPLICATIONS:

Case #2007:11– David Martinez – 42 Nunn Avenue – Block 97.02 Lot 1.02 – R2 Zone

This application is filed for the purpose of having a drive apron of 22 feet. In the Zoning Officer's Refusal of Permit this request is denied for noncompliance with the provisions of Section(s) 94-53 K10 of the Municipal Zoning Ordinance for the following reason(s): The maximum size of the drive apron shall be 15 feet.

Attorney 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 David Martinez for his testimony.

Mr. Eller asked the applicant how many cars his family has and how many people live in the house. Mr. Martinez answered three for both questions. Mr. Eller stated that while inspecting the property he noticed that fourteen houses in the area have drive aprons of at least 20 feet. Mr. Eller noted that the driveway has already been completed. Mr. Martinez confirmed this and stated he asked the contractor repeatedly if a permit was needed. The contractor told him no. He again offered to get a permit but the contractor repeated that a permit was not necessary. Mr. Baucom stated this is not the first time this particular contractor has done this to his customers. Mr. Eller stated that in speaking with Mr. Bescherer prior to the meeting, this contractor was issued a summons.

Mr. Eller stated it is the obligation of a contractor to do right by the customer. He feels the applicant went on a bad recommendation by the contractor and doesn't feel Mr. Martinez needs to downsize the drive apron. There are no drainage issues nor is it a detriment to the neighborhood. The applicant's house is at the end of the road near the woods.

Chairman Hurley noted there was no one 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 David Martinez's request to allow a drive apron of 22 feet. It is the "norm" of the neighborhood, the work is already done and it would be a hardship for the applicant to have the contractor come back and correct the driveway. There are no drainage issues and therefore no detriment to the neighborhood.

Roll Call: Eller, Mangiacotti, Post, Semonche, Truman, Durfee, and Hurley
Ayes: 7, Nays: 0, Abstained: 0

Motion carried.

Chairman Hurley asked if the Board has any repercussions due to the summons issued. Mr. Baucom stated Mr. Bescherer is doing his job as a Borough employee. Ms. Truman asked if the Board could send the contractor the codes. Mr. Baucom stated the contractor has them due to the summons. Mr. Eller feels this is Mr. Bescherer's job, not the Board's.

Chairman Hurley stated he is upset the applicant had to spend money for the variance due to the contractor's negligence.

COMMUNICATIONS:

A letter from Hatch Mott MacDonald regarding the approval review of Open Arms Preschool was received and duly noted.

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The NJ Planner was received and duly noted.

A request from Michael Gesner to vacate a previous ruling and return the property to it's previous zoning status (Case #2007:3 – 51 Broad Street – Block 95 Lot 20) was received. Mr. Gesner of 440 State Route 57W, Washington was sworn in by Mr. Baucom.

Mr. Baucom gave a brief overview of the situation. A prospective buyer had requested a variance earlier this year which the Board granted. The sale contract then fell through. Mr. Baucom stated the Board has the power to modify or reverse decisions. Also, if nothing is done as to the variance, it constitutes loss of the variance. If no intention is shown to change the use of the property, it will continue as a non-conforming use.

Mr. Gesner stated he had spoken to Mr. Bescherer and because of the variance, he can only sell the building to someone who wants to use it for an office. He would like to have the granted variance revoked so he can actively try to sell the property to a wider market without waiting one year for the variance to become null and void. Mr. Eller stated that light manufacturing can also take place on the property.

Mr. Semonche stated the variance was granted to Melissa Williams as the prospective buyer, not Michael Gesner. Mr. Baucom stated the variance pertains to the land. Mr. Post sees this as a potential problem with others requesting a variance and not actually purchasing the property.

Mr. Eller stated he would like to have a letter from Melissa Williams stating that she does not want anything to do with the property anymore. Mr. Post agreed in the event Ms. Williams returns and wants to continue with her plans. Mr. Post stated the Board granted her one year to comply with the variance.

Chairman Hurley suggested a letter could come from Mr. Baucom that the zoning hasn't changed and that the property is still in the OB Zone. Mr. Semonche stated that Mr. Bescherer's interpretation is that it is not in the OB Zone anymore and feels the Board should vote on the interpretation of the Zoning Officer's ruling. Therefore, a motion was made by Eller, seconded by Truman, that the Board direct the acting Board Attorney to clarify what Mr. Gesner's property is zoned for.

Roll Call: Eller, Post, Truman, and Hurley
Ayes: 4, Nays: 0, Abstained: 3 (Mangiacotti, Semonche, Durfee)
Motion carried.

REPORTS:

There were no reports at this meeting.

REMARKS:

Mr. Hurley asked the Board Members to please read pages six and seven of the NJ Planner He stated it is very informative as to the role and responsibilities of board members.

Hearing no further business to come before the Board, a motion was made by Post, seconded by Semonche, that the meeting be adjourned at 8:53 pm.

Ayes: 7, Nays: 0.
Motion carried.

Respectfully submitted,

Frank Mangiacotti, Secretary