

BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY
BOARD OF ADJUSTMENT MINUTES
September 25, 2007

Roll Call: Durfee, Eller, Hurley, Mangiacotti, Truman, Vitalos – 6 Present.

Absent: Nienstedt, Post, Semonche – 3 Absent

Vacancy: None

Also Present: Stuart Ours, Esq., Board Attorney
Rudy Bescherer, Zoning Officer
Robert Miller, Borough Engineer
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 – August 28, 2007

Chairman Hurley entertained additions or corrections to the minutes. Hearing none, it was moved by Durfee, seconded by Mangiacotti, that the minutes of the regular meeting held August 28, 2007 be approved as submitted.

Roll Call: Mangiacotti, Durfee and Hurley –
Ayes: 3, Nays: 0, Abstained: 3 – Eller, Truman, Vitalos
Motion carried.

RESOLUTIONS:

Case #2007:13 – William Coleman – 166 N. Lincoln Avenue

It was moved by Mangiacotti, seconded by Durfee, that the resolution be adopted as approved at the August meeting for the construction of a 12' x 35' deck.

Roll Call: Mangiacotti, Durfee and Hurley –
Ayes: 3, Nays: 0, Abstained: 3 – Eller, Truman, Vitalos
Motion carried.

Case #2007:15 – Ronald Carvallo – 91.5 W. Johnston Street

Mr. Mangiacotti noted the resolution states the Board granted a paved parking pad when it fact the Board granted a gravel parking pad. It was moved by Mangiacotti, seconded by Durfee, that once amended, the resolution be adopted as approved at the August meeting to erect a 6' high fence, construct a deck and install a gravel parking pad.

Roll Call: Mangiacotti, Durfee and Hurley –
Ayes: 3, Nays: 0, Abstained: 3 – Eller, Truman, Vitalos
Motion carried.

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APPLICATIONS:

Case #2007:14 – Charles Wetenhall

356 N. Prospect Street – Block 6 Lot 7.01 – R2 Zone

This application is filed for the purpose of constructing a 24'D x 36'W x 23'H garage. In the Zoning Officer's Refusal of Permit this request is denied for noncompliance with the provisions of Section(s) 94-37 C of the Municipal Zoning Ordinance for the following reason(s): Accessory buildings shall not exceed 15 feet in height. This application was previously discussed at the August 28, 2007 meeting.

Mr. Ours noted that Charles Wetenhall was previously sworn in at the last meeting and will continue his testimony under oath. Mr. Ours asked the applicant which alternatives he had researched. Mr. Wetenhall provided the Board with a catalog of garages he previously considered. Chairman Hurley asked if any of the structures comply with the zoning code. Mr. Wetenhall replied some are 3-car garages, but they don't have space for an office and are not very attractive. They look more like warehouses than a residential garage.

Mr. Eller asked the applicant how tall his house is. Mr. Wetenhall replied that it is 2½ stories with a walk-up attic. Mr. Ours asked if both the house and garage would be brick. Mr. Wetenhall replied that the front of the garage would be brick but the sides would be vinyl siding. Both would show brick fronts when seen from the street. Per Mr. Eller's request, Mr. Wetenhall provided the Board with the garage plans.

Mr. Ours noted that this case cannot be decided upon tonight since those Board Members who were not present at last month's meeting did not listen to the taped recording of the meeting. There is no quorum of the remaining board members. Mr. Eller requested the applicant supply the following information at the next meeting: 1) have the plans showing the height of the garage; and 2) have someone measure the height of the house for accuracy.

Chairman Hurley apologized to Mr. Wetenhall for not being able to hear the case. Mr. Ours stated that if anyone is present for this case it will be heard at the October 23, 2007 meeting.

Case #2007:16 – Pat & Dorothea Martino

2 Oak Ridge Road – Block 44.01 Lot 11– R1 Zone

This application is filed for the purpose of constructing a 10' x 12' shed. In the Zoning Officer's Refusal of Permit this request is denied for noncompliance with the provisions of Section(s) 94-37 D of the Municipal Zoning Ordinance for the following reason(s): An accessory building may be erected in the side or rear yard only.

Chairman Hurley stepped down as Mr. Martino is his neighbor and Vice-Chairman Eller led the meeting at this point. 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 Pat Martino for his testimony.

Mr. Martino stated he would like to add a 10' x 12' shed to be used for storing lawn equipment on the west side of his yard. He has an undersize corner lot. Mr. Ours stated the applicant is actually putting the shed on his side yard where he currently only has 12'. Mr. Martino stated there are privacy style trees on the property line.

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Mr. Eller asked how far the shed will be from the property line. Mr. Ours replied it will be 6' off the back line and 25' off of Elizabeth Avenue. Mr. Ours asked if the front of the house faces Oak Ridge Road. The applicant replied it does. Mr. Eller asked if the driveway and garage face Oak Ridge Road. Mr. Martino replied that they do. There are two people living in the house and there are two cars. Mr. Eller stated the shed seems to be in the back yard when looking at the house. Because it is a corner lot, the shed is actually in the side yard.

Mr. Eller asked the height of the shed. Mr. Martino replied it is 15' and he will purchase a pre-made model. Mr. Eller asked how the shed will be dropped. Mr. Martino stated the width is 12' and will run east to west. It is 10' deep and the barn-style doors will open towards Oak Ridge Road. Mr. Eller stated he feels it is in a good location.

Mr. Ours stated the pictures provided by the applicant show the neighbor's garage behind the applicant's house. He asked how far it is off the side line. Mr. Martino replied it is approximately 10 to 12 feet.

Mr. Ours stated the Board is required to show circumstances that justify the variance. The applicant has an exceptionally narrow property and a small corner lot. The house is set back on the lot leaving the applicant with a small back yard. He feels there will be no detriment to the zone plan or the neighbors. The shed will be screened by trees and the neighbor's garage.

Vice-Chairman Eller noted there was no one in the audience in regards to this case.

Hearing no further discussion from the Board, a motion was made by Durfee, seconded by Truman, to approve the construction of a 10' x 12' shed based on the fact the applicant has a small corner lot. There is no detriment to the public good.

Roll Call: Mangiacotti, Truman, Durfee, Vitalos and Eller –
Ayes: 5, Nays: 0, Abstained: 0

Motion carried.

Mr. Eller stepped down and Chairman Hurley continued with the meeting.

Case #2007:17 – JCP&L Company

111 Kinnaman Avenue – Block 6 Lot 48 – R2 Zone

This application is filed for the purpose of constructing a 12' x 13' pad with Assoc. Power Equipment. In the Zoning Officer's Refusal of Permit this request is denied for noncompliance with the provisions of Section(s) 94-76 A of the Municipal Zoning Ordinance for the following reason(s): 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. Mr. Ours stated JCP&L has had a sub-station at this location for many years and it is a non-conforming use in the zone. They are expanding on a use that is already there.

Mr. John Beyel, Esq. stated his is the attorney representing JCP&L. He stated all work will be done in the existing sub-station. They are looking to add a transformer and breakers. Mr. Beyel stated the company is offering a service of community value and therefore this is an inherently beneficial use application which satisfies special reasons. The benefits outweigh the negative aspects of what is being done.

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Mr. Ours swore in the following witnesses for JCP&L: Mr. Cory Anderson, Mr. Larry Smith and Mr. Bernard Chernisky.

Mr. Anderson stated his education and professional experience deeming him qualified to testify for the applicant as a planning engineer. Exhibit A-1 was submitted into the record of the existing substations surrounding the Boro. There are three locations in the area including Broadway, Port Murray and Washington Boro. The connection point is the Boro. Factors considered in the upgrade are the substation's overload, the circuit's length and maintaining liability. JCP&L is proposing one more transformer because of the increase in demand due to an increase in household use. The transformer will cover the existing area better.

Mr. Durfee asked if anything else would need to change for the new voltage. Mr. Anderson replied that one or two poles may be replaced to accommodate the heavier wires, but the same paths would be used. They are not replacing the other transformers, just looking to relieve some of the load to the transformer. Mr. Durfee asked if it will be servicing outside the Boro. Mr. Anderson replied that it would not. The long term benefits of this would be adding capacity to the Boro and relieving current overloads to maintain an efficient system.

Mr. Durfee asked how long it would be before having to update the system again. Mr. Anderson replied they are hoping the new system will last at least until 2060, but that would depend upon growth. Mr. Eller asked if this equipment is necessary due to the new construction around the Boro. Mr. Anderson replied that it is not, it is needed to maintain the system. Mr. Beyel stated the system is currently operating at a loss. Each year it runs on overload causes it to lose life and has the potential to fail. This new system would help alleviate the possibility of brown or black outs.

Boro Engineer Bob Miller asked if it would increase reliability of the service to the customer. Mr. Beyel replied that it would. Ms. Truman asked if it was necessary to place it at the Boro's substation. The reply was yes because of the space and existing accommodations. There would be a need to add poles, wires, etc. if placed at another substation. Better service is provided when there is less distance to supply the power to the customers.

Mr. Beyel called his next witness to the stand. Bernard Chernisky stated his education and professional experience deeming him qualified to testify for the applicant as a licensed engineer. Exhibit A-2 was submitted into the record as a site plan extending from Kinnaman Avenue to Belvidere Avenue. There is 10 acres with a storage yard in the back. They will be adding the transformer within the existing substation yard. There will be no changes to the current fencing. The height of the new structure is 13'. The existing structure is 25'. Mr. Durfee asked if the 13' structure would be seen by those on Rush or Lincoln Avenues. Mr. Chernisky replied that you would, but it would be in line with the existing equipment. The view from Belvidere Avenue will remain the same.

Exhibit A-3 was submitted into the record as an electrical plan of the substation. Exhibit A-4 was submitted into the record and shows pictures of how the equipment is installed. The proposed equipment will be in line with the existing equipment, perpendicular to the high structure and placed on a concrete foundation.

Fans were installed to keep the transformers cool from being overloaded. These fans generate more noise than the new equipment. The new transformer will alleviate the need for these fans. The low noise transformer was tested at the residential property line and found to be well below the NJ state noise standard.

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Mr. Chernisky stated the Boro Engineer had requested testimony regarding the impact on the Morris Canal Zone. He stated there will be no significant impact on the Canal Zone. All work will be done within the existing substation.

Ms. Truman asked if the fans will be removed if the variance is approved. Mr. Chernisky replied the free standing fans would be removed, reducing the noise level. Chairman Hurley asked Mr. Anderson if he also agrees the fans would be eliminated. Mr. Anderson replied that they would be removed. The Board reviewed pictures of the equipment. Ms. Truman asked about the construction equipment needed for installation. Mr. Chernisky replied there will be a week or so of digging the foundation and a crane will be needed for one or two days.

Mr. Beyel called Larry Smith to the stand. Mr. Smith stated his education and professional experience deeming him qualified to testify for the applicant as a professional planner. Exhibit A-5 was submitted into the record as pictures of the area. He noted he was present when the pictures were taken and described them for the Board. Mr. Smith stated the substation is hidden from Lincoln Avenue by a tree line. Mr. Durfee noted it will be visible in the winter months when the leaves have fallen.

Mr. Smith stated JCP&L provides safe, reliable power to the public. There are no detrimental affects of the project as it is not visible by the homes and they are not expanding. The new transformer will blend in with the rest of the electrical equipment and there will be minimal disturbance to the Soil Erosion Plan. Mr. Chernisky stated it is not high voltage. There are no adverse affects from the lines or substation.

Chairman Hurley entertained comments from the audience.

Courtney Diamond, 317 Belvidere Avenue, was sworn in for her testimony. Ms. Diamond stated her property abuts the substation and feels it is an eyesore. She provided the Board with pictures taken in the winter. She stated the substation looks like it is in her backyard and asked if JCP&L will do anything to prevent this. Mr. Beyel stated the proposed equipment will be blocked by the existing equipment. They are not proposing any additional landscaping. He asked Ms. Diamond if the equipment was there when she purchased her property. Ms. Diamond replied that it was. She had the same view when she moved in. Ms. Diamond showed Mr. Ours on the map where she lives. Mr. Durfee asked if the view will be made worse than the existing view. Mr. Beyel replied that it will not be any different. Mr. Ours questioned the shed in the picture. Ms. Diamond stated it is not hers and has been there since she moved in. The fence is JCP&L's. Mr. Beyel stated his client will remove the shed if it is found to be on JCP&L property.

Nancy Anderson, 11 Kinnaman Avenue asked if there will be a need for any towers or additional poles. Mr. Anderson replied there will not be a tower at this time, but cannot speak to the future. Ms. Anderson asked if the neighbors would be notified if there were plans for a tower. Mr. Anderson replied that they would be notified.

Ed March, 309 Belvidere Avenue, stated JCP&L's property backs up to his backyard. He asked if fans will be necessary in the future. Mr. Anderson stated the new transformer is addressing the overload problem, which is what the fans are used for. Once the overload is alleviated, the fans will not be necessary. The new equipment has its own cooling system. Mr. March would like to see more landscaping to hide the equipment from his property.

Ms. Truman asked if the applicant would be opposed to adding more vegetation to the property line. Hannah Massequoi stated the equipment cannot be concealed. Mr. Chernisky stated he would consider more trees on

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the property line. Ms. Massequoi will have someone take a look at the situation as the current buffer goes away in the winter months. Mr. Beyel stated he will pass this issue over to the forestry department. He requested that if approved he would like to obtain the permits before the resolution is adopted due to upcoming weather conditions.

Barry Nansen, 7 Kinnaman Avenue, asked if this transformer will involve the Township or does it only supply the Boro. Mr. Anderson stated it relieves the overload to outside the Boro. Mr. Nansen asked if any rate hikes would take place because of this. Mr. Anderson stated this is not his expertise, but no rates will be affected.

Mr. Bescherer stated he has no concerns with the installation of the transformer.

Mr. Ours stated the Mr. Beyel has indicated this is inherently beneficial as JCP&L serves the overall public good. The transformer will be staying within the existing fence and will be less in height than what is already there. The Board can require additional vegetation and can ask they remove the shed.

Hearing no further discussion from the Board, a motion was made by Eller, seconded by Truman, that the Board grant a variance to add a new substation within the existing fence as per the drawings. The minor site plan meets criteria on the checklist. It is a public good to have the service provided. The variance is approved with two conditions: 1) Applicant is to come to the next meeting with buffer plans on Belvidere Avenue, and 2) The shed is to be removed if it is found to be the property of JCP&L.

Roll Call: Eller, Mangiacotti, Truman, Durfee, Vitalos and Hurley
Ayes: 6, Nays: 0, Abstained: 0

Motion carried.

Mr. Beyel stated he will put a plan together to be reviewed by the planner. The Board members stated they would like to see the plans as well. Mr. Miller asked Mr. Beyel to send a copy of the plans to Carl Heinz and to the Board Clerk. Mr. Beyel asked if the Board would require copies of the exhibits. Mr. Ours replied they do not. Mr. Beyel will bring a landscape representative to the next meeting and will remove the shed before the next meeting.

COMMUNICATIONS:

A letter was received regarding a variance extension for Sam Hicks, Case #2004:13, Block 61, Lot 10.

Mr. Alan Lowcher, Esq. was in attendance representing Mr. Hicks. Mr. Lowcher gave a brief summary of the case. He stated the property is located at Garfield and Harrison Streets. There is an access easement to the property. Mr. Hicks originally received variance relief on September 28, 2004. The property was purchased with the intent of building a single family house. Mr. Hicks got everything needed to proceed with the exception of water service. A water main extension would be necessary. They received a letter from the Fire Department stating the details of what they would like to see done. The line should be extended down the easement. Mr. Hicks worked with the water company, the previous Boro Manager and the Fire Department in 2005 for almost a year. It wasn't asked of Mr. Hicks to do, but yet he couldn't proceed.

Mr. Lowcher stated the applicant's engineer provide him with different options. All options require time. The project is more of an undertaking than anticipated. The applicant is looking for a variance extension thru September 2008. Mr. Eller asked if the applicant could install a well. Boro Engineer Bob Miller replied that he cannot.

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Mr. Charles Anthony was in the audience. Mr. Anthony stated the applicant received a sewer extension the first year but did not file until several months later. He then asked for an extension the next month. Mr. Eller asked if the only issue with the house being built is the problem with the water. Mr. Lowcher replied that is correct. Mr. Ours stated there is no legal issue since there is no change to the zoning.

A motion was made by Eller, seconded by Mangiacotti, to extend Mr. Hick's variance thru September 27, 2008.

Roll Call: Eller, Mangiacotti, Truman, Durfee, Vitalos and Hurley
Ayes: 6, Nays: 0, Abstained: 0
Motion carried.

REPORTS:

There were no reports at this meeting.

REMARKS:

Chairman Hurley stated he will be going before Council at their next meeting on October 2nd. The Board Clerk will provide him with a list of this year's applicants and their status. Chairman Hurley asked if there was anything the Board Members would like him to bring to Council's attention. Mr. Bescherer stated he has a list of items that Council should be made aware, including impervious coverage and parking on the front lawn.

Mr. Eller stated a Council member has suggested a joint Planning and Zoning Board. Mr. Ours stated the Township went to a combined board and the meetings always run late. Mr. Miller stated there would not be any money saved on professionals as there would still be the same number of cases. Mr. Eller and Mr. Durfee both feel two separate boards are best.

Hearing no further business to come before the Board, a motion was made by Durfee, seconded by Vitalos, that the meeting be adjourned at 10:48 pm.

Ayes: 6, Nays: 0.
Motion carried.

Respectfully submitted,

Frank Mangiacotti, Secretary