

BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY
BOARD OF ADJUSTMENT MINUTES
January 22, 2008

Prior to the Roll Call, the **Oath of Office** was administered to **Don Eller**.

Roll Call: Eller, Durfee, Mangiacotti, Post, Semonche, Truman – 6 Present.

Absent: Vitalos – 1 Absent

Vacancy: 2 Vacancies

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

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

NOMINATIONS OF OFFICERS FOR 2008

It was moved by Semonche, seconded by Truman, that **Don Eller** be appointed **Temporary Chair** to conduct the nominations of Officers for 2008.

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

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

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

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

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

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

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

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Appointment of the Clerk for the Calendar Year 2008

It was moved by Eller, seconded by Post, that **Ann Kilduff** be appointed as **Clerk of the Board** for the Calendar Year of 2008.

Roll Call: Durfee, Mangiacotti, Post, Semonche, Truman and Eller –
Ayes: 6, Nays: 0, Abstained: 0

Motion carried.

Appointment of the Board Attorney

It was moved by Post, seconded by Truman, that **Stuart Ours, Esq.** be appointed as **Board Attorney**:

Roll Call: Durfee, Mangiacotti, Post, Semonche, Truman and Eller –
Ayes: 6, Nays: 0, Abstained: 0

Motion carried.

Appointment of Board Engineer

A discussion of eligible candidates took place. Mr. Ours explained that since the Borough and the Planning Board appointed two different engineers, this Board can appoint either or another engineer. It was moved by Post, seconded by Durfee, that this appointment be tabled until the February 26, 2008 meeting.

Roll Call: Durfee, Mangiacotti, Post, Semonche, Truman and Eller –
Ayes: 6, Nays: 0, Abstained: 0

Motion carried.

Contract for Legal Services

Mr. Ours discussed the Contract for Legal Services. Chairman Eller asked if Mr. Ours is not available, does the Board pay the substitute attorney what they charge or the rate set for the Board Attorney. Mr. Ours replied the Board would pay the substitute attorney's fee and that the Borough has budgeted for this. Hearing no further discussion, a motion was made by Post, seconded by Truman, to approve the Contract for Legal Services.

CONTRACT FOR LEGAL SERVICES

WASHINGTON BOROUGH BOARD OF ADJUSTMENT, c/o Ann Kilduff, Clerk, Municipal Building, 100 Belvidere Avenue, Washington, New Jersey 07882, hereinafter called the "client" agrees to employ Stuart C. Ours, Esquire, Attorney at Law, of 196 Belvidere Avenue, P.O. Box 308, Washington, New Jersey 07882, hereinafter called the "Attorney", to perform all necessary legal and related services in connection with the following matter:

Legal representation to the Board for the calendar year "2008".

Client agrees to pay the attorney for services rendered on the following basis:

1. \$4,200.00 as a salary to attend regular meetings of the Board in 2008 and draft routine resolutions, to the extent not covered by escrows received from applicants.

2. On a time basis for work performed in addition to the above services at regular meetings at the rate of \$130.00 per hour.

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Client agrees to reimburse the attorney for all disbursements reasonably and necessarily incurred in connection with the proper performance of legal services.

Bills for services and disbursements over and above the salary will be submitted to the client no more than monthly and no less than quarterly.

WASHINGTON BOROUGH BOARD OF ADJUSTMENT
BY DON ELLER, CHAIRMAN

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

Resolution Establishing the Meetings for the Calendar Year of 2008

The following resolution scheduling meetings for 2008 was moved by Post, seconded by Semonche and adopted.

RESOLUTION – 2008:1
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**.

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

BOARD OF ADJUSTMENT
SCHEDULE OF REGULAR MEETINGS
WASHINGTON BOROUGH, WARREN COUNTY, NEW JERSEY.

(4th Tuesday of Each Month)

January 22, 2008	July 22, 2008
February 26, 2008	August 26, 2008
March 25, 2008	September 23, 2008
April 22, 2008	October 28, 2008
May 27, 2008	November 25, 2008
June 24, 2008	December 23, 2008

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Re-organizational Meeting: January 27, 2009

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.

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

MINUTES:

Regular Meeting – November 27, 2007

Chairman Eller entertained additions or corrections to the minutes. Hearing none, it was moved by Truman, seconded by Durfee, that the minutes of the regular meeting held November 27, 2007 be approved as submitted.

Roll Call: Durfee, Mangiacotti, Truman, Eller
Ayes: 4, Nays: 0, Abstained: 2 (Post, Semonche)
Motion carried.

RESOLUTIONS:

There were no resolutions to approve at this meeting.

APPLICATIONS:

Case #2008:2 – Asmaa Ahmed – 3 Hillcrest Avenue – Block 86 Lot 3 – R2 Zone

This application is filed for the purpose of expanding the parking area and not removing the curb. This application has been postponed until the February 26, 2008 meeting. Chairman Eller noted there was no one in the audience for this case. Mr. Ours stated there is no need to re-notice the paper for this application.

Case #2005:6 – Paul Cioletti – N/N Hillcrest Avenue; Block 88 Lot 12 B1 Zone

Mr. Cioletti noted the variance approval he previously received was for a one-family dwelling rather than a two-family dwelling as stated on the agenda. Mr. Cioletti is here to request an extension from the Board.

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 Paul Cioletti for his testimony.

Mr. Cioletti stated health problems and sewer issues held up his plans. Chairman Eller noted a letter states there is an easement from the neighbors. Mr. Cioletti replied there is a right of way. Mr. Ours asked if he will have a pump system up to Broad Street. Mr. Cioletti replied that he will.

Mr. Cioletti stated he has been getting different answers from different engineers. He met with the current Borough Engineer, Andrew Holt, and has been approved to move forward. Mr. Holt reviewed the documents and sent Mr. Cioletti a letter with twelve provisions which need to be addressed.

Chairman Eller noted there is a house to the left of Mr. Cioletti's property and Smith Ford is on the other side. He asked the timeframe if the variance is granted. Mr. Cioletti replied the sewer will be completed within three

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months, weather permitting. Mr. Post asked where the pump is located. Mr. Cioletti replied it is on the property maintained by the home owner. It will be outside under a manhole cover.

Mr. Ours stated that a variance is only good for one year, so this is essentially a new application. Mr. Ours recited the resolution the Board had previously approved for those new to the case.

Chairman Eller noted there was no one in the audience to hear this case.

Hearing no further discussion from the Board, a motion was made by Post, seconded by Truman, that the Board extend this application exactly the same as it was previously.

Roll Call: Durfee, Mangiacotti, Post, Semonche, Truman and Eller –
Ayes: 6, Nays: 0, Abstained: 0

Motion carried.

Case #2008:1 – Robert Migliaccio – N/N S. Lincoln Avenue; Block 98 Lot 29.01 R3 Zone

This application is filed for the purpose of constructing a two-family dwelling. In the Zoning Officer's Refusal of Permit this request is denied for noncompliance with the provisions of Section(s) 94-77 B5 of the Municipal Zoning Ordinance for the following reason(s): The minimum lot area of a two-family dwelling shall be 11,250 square 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 Robert Migliaccio for his testimony.

Mr. Ours noted the property was subdivided in 2006 and asked the applicant if he owned the property. Mr. Migliaccio replied that he did not but was under contract. Mr. Migliaccio stated the neighborhood has fifteen single family, nine multi-family homes and four commercial properties. He feels his home would be a nice fit in the neighborhood and feels it is a better choice than a single-family home. It would be a two-story home with a family on the right and left. Mr. Ours asked if he would live there. Mr. Migliaccio stated he's considering it but hasn't decided yet. He provided a floor plan and pictures for the Board's review.

Mr. Semonche asked where the parking area would be. Mr. Migliaccio explained he would have a carport in front and add another curb opening if needed. A discussion of parking in the front yard took place. Chairman Eller noted the applicant is short on lot size and the parking situation is not desirable. Mr. Semonche stated more than one space is required for each unit. The Board has allowed a driveway in front in the past only if the house is already there and there is no other option to get cars off the street. Different options were discussed, including building a garage into the basement and turning the house sideways. Mr. Semonche feels one wider driveway is better than two openings. Mr. Post asked if there is a driveway directly across the street now. Mr. Migliaccio replied that there is.

Mr. Ours stated the Board needs to find an extraordinary situation to be able to grant the variance. The lot size is good for a single family dwelling and the neighborhood is predominately a single family neighborhood. The applicant is not showing any justification to grant the variance. Chairman Eller stated the applicant can either come back with revised plans or the Board can vote as is. Mr. Migliaccio stated he would like to come back to the Board with revised plans.

Chairman Eller entertained comments from the audience.

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Maxine Hunt of 63 S. Lincoln Avenue was sworn in for her testimony and stated she has several concerns. There is a garage on the back of the driveway and stone drive up to it that perhaps can be utilized. She feels a garage on the front of the house will not conform to the neighborhood. She is concerned with having an absentee landlord and sees that maintenance and care is a problem with other properties in the same situation. Mr. Ours stated there isn't currently a garage on the plans. Rudy Bescherer thought the garage was demolished but will stop by the property tomorrow.

Gina Appleby of 28 Willow Street was sworn in for her testimony. She feels the count of single family homes would be greater if Mr. Migliaccio included the surrounding streets such as Willow Street, Hahn Avenue, etc. as part of the neighborhood. Ms. Appleby feels parking is a big issued. It is a bad corner and a narrow street. She feels approving a variance without a design is not a good idea. The Borough is going away from 2-family homes and therefore this would not be a good fit for the neighborhood and feels the home should be a single family dwelling.

Chairman Eller noted there was no one else in the audience in regards to this application and stated this discussion will be tabled until the February 26, 2008 meeting. Mr. Ours noted there is no need to re-notice for the meeting.

Case #2008:3 – Luis Dias – 141 N. Lincoln Avenue; Block 6 Lot 33 R3 Zone

This application is filed for the purpose of constructing a 22' x 26' garage. In the Zoning Officer's Refusal of Permit this request is denied for noncompliance with the provisions of Section(s) 94-37 A and 77 B2 of the Municipal Zoning Ordinance for the following reason(s): Any accessory building must adhere to the yard requirements for the principle building and there shall be a front yard of 20 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 Mr. Dias for his testimony and to Mr. Christian Belotto as an interpreter for Mr. Dias.

Mr. Ours asked Mr. Dias if he is the owner of the property. Mr. Dias replied that he has owned the property for 3½ years. He would like a two car garage because there is no parking space in the front yard. Mr. Semonche asked how many cars the applicant has. Mr. Dias replied they have two cars. Chairman Eller explained there are too many things in the yard for his lot size. Mr. Dias stated he would remove the pool and the shed could be moved behind the garage. Chairman Eller asked the applicant why he would like a garage instead of a parking space. Mr. Dias replied he needs a place for his family to park. He wants the garage and is willing to remove the pool. The deck would stay but may need to be cut back.

Mr. Eller asked if there were any plans as to what the garage would look like. Mr. Dias replied no, not yet. Mr. Post asked who would be doing the construction. Mr. Dias replied he is a contractor and would do the work himself. Mr. Durfee asked the measurement of the space on the side of the garage. Mr. Dias replied it is 6' 7" on the side by the neighbor and there is 22' from the road to the garage door. Mr. Post asked if the garage would eliminate the walkway on the side of the house. Mr. Dias replied that it would and there would be a door there.

Chairman Eller entertained comments from the audience.

Jon and Laurie Dalrymple of 133 N. Lincoln Avenue were sworn in for their testimony. Ms. Dalrymple stated the applicant has had total disregard for their neighbors since moving in. There are cars parked on the grass and

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on their property line even after being told he can't. Photos of the property were submitted to the Board and attorney. Fumes currently come into the Dalrymple's home from cars being left running for long periods of time.

Mr. Dalrymple stated he is uncomfortable sitting on his side deck. His view would now be the applicant's garage and feels closed in. Ms. Dalrymple feels the past actions of the applicant should speak for their total disregard. Ms. Truman stated that if the garage is not approved, the Board would have done nothing to help the situation.

Mr. Post noted there is no curbing to prohibit parking and asked if the applicant could be made to add curbing to limit the opening if the variance is approved. Mr. Ours replied that he can be. Mr. Post asked if it would help if the garage was granted with the condition of a buffer. Ms. Dalrymple replied 6' shrubs would be helpful if planted from the tree to the end of the carport.

Chairman Eller stated nothing would be decided on tonight as Mr. Dias needs to provide the Board with plans of the garage. Mr. Semonche reminded the applicant that the deck would be L-shaped. He showed Mr. Belotto on the plans where the pool and part of the deck would be removed. Mr. Ours stated it sounds like the Board is favorably inclined to grant the variance to help alleviate the neighborhood problem. The Board would like to see siding or what the garage will look like in regards to the rest of the house.

Chairman Eller noted there was no one else in the audience in regards to this application and stated this discussion will be tabled until the February 26, 2008 meeting. Mr. Ours noted there is no need to re-notice for the meeting.

COMMUNICATIONS:

A letter from William O'Brien to Zoning Officer Rudy Bescherer was received and discussed. Mr. Bescherer gave a brief history of the questioned renting of cars and trucks by dealerships and feels this is an associated business. Mr. Bescherer checked with Mr. Ours and he agreed this is an associated business. Chairman Eller stated he has the same position as when this situation was first brought to the Board's attention. Mr. Semonche doesn't feel it is part of repair facility to rent trucks. Mr. Durfee agrees. Mr. Post stated that quite a few auto dealers and body shops in the Borough have rented out trucks in the past. Mr. Durfee noted that Mr. O'Brien states in his letter that this is an exception when in fact it is not an exception because other companies rent trucks. Mr. Ours doesn't feel this is a proper application before the Board for them to act upon. Mr. Bescherer stated no other business or resident has mentioned this. The only issue is with a Township business. He will respond to Mr. O'Brien tomorrow.

A copy of the 2008 budget as it will be presented to Council was received and accepted. The Board decided there is no need to meet with Council to discuss.

The November 2007 NJ Planner was received.

The NJLM Mandatory Training for Land Use Boards memo was received.

The NJPO Winter/Spring 2008 Mandatory Training Program Listing was received and upcoming training programs were discussed.

REPORTS:

There were no reports at this meeting.

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REMARKS:

Mr. Post asked if driveways can be directly across from one another. Mr. Ours stated there is nothing in the ordinance, but it is probably not a good idea.

Chairman Eller congratulated the newly elected officers and thanked everyone for their vote of confidence.

Hearing no further business to come before the Board, a motion was made by Post, seconded by Durfee, that the meeting be adjourned at 10:21 pm.

Ayes: 6, Nays: 0.
Motion carried.

Respectfully submitted,

Frank Mangiacotti, Secretary