

BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY
BOARD OF ADJUSTMENT MINUTES
August 26, 2008

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

Absent: None

Vacancy: 2 Vacancies

Also Present: Stuart Ours, Esq., Board Attorney
Ann Kilduff, Clerk

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

MINUTES:

Regular Meeting – July 22, 2008

Chairman Eller entertained additions or corrections to the minutes. Hearing none, it was moved by Post, seconded by Semonche, that the minutes of the regular meeting held July 22, 2008 be approved as submitted.

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

RESOLUTIONS:

Case #2004:13 – Sam Hicks – Harrison Street / Garfield Street

It was moved by Post, seconded by Semonche, that the resolution be adopted as approved at the July meeting granting an extension to a bulk variance.

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

APPLICATIONS:

Case #2008:10 – Maureen Grasso – 60 E. Washington Avenue – Block 24 Lot 19 B2 Zone

This application is filed for the purpose of operating a Gaming Center Club. In the Zoning Officer's Refusal of Permit, this request is denied for non-compliance with the provisions of Section(s) 94-81A and 23-6A of the Municipal Zoning Ordinance for the following reason(s): Amusement devices are not permitted in this zone or within 200 feet of a church or school. This case has been tabled from the June 24 and July 22, 2008 meetings.

Mr. Ours stated for the record that Chairman Eller and board member Truman have both heard the tape of the prior proceedings. Mr. Ours asked the board members who had visited the Cyber Dome in Pennsylvania for their input. Mr. Durfee stated he was very impressed with the cleanliness of the facility. He feels the location here is better than the one in Pennsylvania. He stated they have quality equipment and that the store was not

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busy the Saturday evening he visited. Mr. Mangiacotti stated he visited the facility on a Friday night at 10:00 p.m. No children were there, but he too was very impressed with the facility.

Mr. Ours reminded Mr. Grasso that he is still under oath. Mr. Grasso stated the noise is the equivalent to playing in your living room. Children and adults both play the games. Children can be sponsored to compete as teams.

Chairman Eller questioned the ordinance in the packet. Mr. Ours stated the proposed ordinance, which is set to be adopted at council's September 2nd meeting, was a recommended list of changes from the planning board to council. He doesn't feel "recreational sports center" would include the gaming club, but it is up to the board to interpret the zoning ordinance. Chairman Eller feels this business would fall under the "all other" category and therefore the case should continue as is. The board members agreed. Mr. Grasso feels his business is a sports and recreation center. He feels it is a sport because there is competition; they are not playing arcade games. They would also be sponsoring teams to compete against other teams. After a brief discussion, the board decided to wait to interpret the ordinance since it has not been adopted yet.

Ms. Truman asked if background checks are done on the employees. Mr. Grasso replied there are and that he will have no manager under the age of eighteen.

Mr. Post gave an account of his visit to the Pennsylvania location. He stated it was neat and clean and not noisy. He visited on both a Saturday and Thursday at 3:00 p.m. one day and 6:30 p.m. on the other. There weren't many people there. No one challenged him going in and sitting by the children. Both days the employee was playing. Mr. Post felt this was a good location because it was not right in town.

Mr. Grasso stated there are security cameras that videotape everything. Parents are given a password to access the site. In response to Chairman Eller's questions, Mr. Grasso stated the minimum age to be in the facility without a parent is over ten. The applications are signed by the parents giving permission as to which levels of games their child is allowed to play. Mature games are played in a separated section of the room. Medical records are kept on site on a need to know basis to be made aware of allergies, diabetes, etc. since they sell candy and water over the counter.

Chairman Eller noted the proposed lock-ins do not coincide with the scheduled hours and would close the facility to the general public. Mr. Grasso agreed that some people may be turned away because of an activity, but these events are scheduled in advance, sent to members via e-mail and listed on their website.

Ms. Truman is concerned with people smoking outside the establishment and affecting the neighbors upstairs. Mr. Grasso said he would be in favor of prohibiting this to the best of his ability. Mr. Semonche feels this store would be better suited in a strip mall. Mr. Grasso feels this is an excellent location, everything is new and he has been provided with an incentive from the BID.

Chairman Eller stated he understands the appeal, but asked if the applicant has looked elsewhere in the Borough. Mr. Grasso stated this is where he wants to locate his business. He likes the idea of sidewalk sales, the gym across the street and access for children to be dropped off.

Chairman Eller entertained input from the audience.

Jim Sheldon, Executive Director of the BID, was sworn in for his testimony. He stated there are no suitable locations along Route 31. The board members discussed other options in the Borough. If granted the variance,

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Mr. Sheldon feels Mr. Grasso would not allow loitering outside his location. Mr. Ours asked if this business is consistent with other downtown businesses. Mr. Sheldon replied that it would fit in well and would help attract people to the downtown area.

Chairman Eller noted there were no other audience members in regards to this application.

Mr. Vitalos questioned operating by the hours of the curfew. Mr. Grasso noted that the movie theater can have movies past curfew; however, he proposes as part of the memberships, provide the curfew regulations to the parents and have them sign that they have reviewed. The burden is now on the parents to enforce with their children. They would not be in violation of the curfew if they are leaving an establishment where they are a member and going straight home.

Mr. Semonche is concerned the apartments are upstairs and the owners will hear noise when they are leaving at midnight. He would like to see Friday and Saturday hours changed to closing at 11:00 p.m. Chairman Eller agrees and also feels there should be no overnighters. Mr. Grasso stated he cannot have a business with restrictions. All nighters are a big part of the business. They are registered events that are held once a week during the summer on Fridays. They are helpful to parents and a social event for the children.

Mr. Durfee noted the curfew only applies if the children are outside. Mr. Grasso has control over that. It doesn't affect those over eighteen and doesn't feel it is an issue because it will be controlled by the owner.

Mr. Grasso feels fewer hours would be an economical hardship. He stated he wants to support other businesses in the area. He could help parents by providing a place for children to go. He would be working with Abilities to provide programs for children. The business provides many positives. He thanked the board for their time.

Mr. Ours stated the board needs to find special reasons to justify the use in this zone and if it is well suited to the location. The board also has to find that the negative criteria are satisfied.

It was moved by Vitalos, seconded by Truman, to grant the variance with the following conditions. A bike rack is to be installed so as not to impede pedestrian traffic and the hours are to be changed to no later than 11:00 p.m. on any day of the week. This variance is granted to generate more business to other downtown stores and to provide the town with a recreational facility.

Roll Call: Durfee, Mangiacotti, Truman, Vitalos, Eller –
Ayes: 5, Nays: 2 (Post, Semonche), Abstained: 0
Motion carried.

The board took a five minute recess.

Case #2008:11 – Maynard McNeil – 110 Sunrise Terrace – Block 66.04 Lot 4 R1 Zone

This application is filed for the purpose of replacing second floor side steps and deck with a 6'x 16' deck. In the Zoning Officer's Refusal of Permit, this request is denied for non-compliance with the provisions of Section(s) 94-75 B3 of the Municipal Zoning Ordinance for the following reason(s): There shall be a side yard of at least 15 feet.

Attorney Ours stated notices are in order. The Board has jurisdiction to hear this case. Mr. McNeil was sworn in for his testimony.

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Mr. McNeil stated he bought his property in 1975 and the house was built in 1973. After speaking to the Zoning Officer, he found out the stairs were not built to code. They are now old and rusting and need to be replaced. He would like to add a small deck.

Chairman Eller noted that the electric and gas meters are located on that side of the house. Mr. McNeil stated the proposed deck would go in between the two meters. It was noted the steps would be three feet wide.

Chairman Eller noted there was no one in the audience in regards to this application.

It was moved by Truman, seconded by Post, to approve the variance to construct a deck as per the drawings provided as there will be no detriment to the public good.

Roll Call: Durfee, Mangiacotti, Post, Semonche, Truman, Vitalos, Eller –
Ayes: 7, Nays: 0, Abstained: 0
Motion carried.

Case #2008:12 – Barbara & Kevin Serridge – 30 Nunn Avenue – Block 97.02 Lot 4 R2 Zone

This application is filed for the purpose of expanding a drive apron and parking area. In the Zoning Officer's Refusal of Permit, this request is denied for non-compliance with the provisions of Section(s) 94-53 K1 & 10 of the Municipal Zoning Ordinance for the following reason(s): There shall be no parking in the front yard except on an approved driveway and the maximum size of the drive apron shall be 15 feet.

Attorney Ours stated notices are in order. The Board has jurisdiction to hear this case. Mrs. Serridge was sworn in for her testimony.

Mr. Ours noted there is currently a two car garage on the property. Mrs. Serridge stated they have two cars and a truck. Their child will be driving as well in a few years. Part of their garage is used for storage. They were cited for parking on the grass so as to not block anyone. Neighbors park on the street preventing them from doing the same. They have owned the property since 1991. The truck is used for work, plowing and yard work.

Mr. Post asked if there was anywhere to store the truck. Mrs. Serridge replied there is no access to the backyard. They would have to pay a storage fee to store it elsewhere. Ms. Truman feels the answer to the problem is the garage. The board discussed different options with the applicant.

Chairman Eller noted there was no one in the audience in regards to this application.

Mr. Ours stated the board needs to find if the situation is uniquely affecting the property and there is no detriment to the zone plan or public good. Mr. Semonche stated the garage was built too close to the road. Mr. Post stated the terrain and pitch of the property is not good. Mr. Durfee noted the garage is on the property line.

It was moved by Semonche, seconded by Post, to grant the variance to increase the previously non-conforming structure from 26' to 28' wide, reason being when the house was built in the 1940's it was built too close to the road without a long driveway. There will be no detriment to the public good or zone plan.

Roll Call: Durfee, Mangiacotti, Post, Semonche, Truman, Vitalos, Eller –
Ayes: 7, Nays: 0, Abstained: 0

Motion carried.

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COMMUNICATIONS:

The July/August NJ Planner was received.

A letter from Mr. Charles Anthony regarding the Sam Hicks extension was received and duly noted. Mr. Ours stated the letter seems to be addressing issues that are more pertinent to the water company than the Board.

REPORTS:

There were no reports at this meeting.

REMARKS:

Hearing no further business to come before the Board, a motion was made by Durfee, seconded by Vitalos, that the meeting be adjourned at 10:30 p.m.

Ayes: 7, Nays: 0.
Motion carried.

Respectfully submitted,

Frank Mangiacotti, Secretary