

**BOROUGH OF WASHINGTON, WARREN COUNTY, NEW JERSEY**  
**BOARD OF ADJUSTMENT MINUTES**  
**August 24, 2010**

**Roll Call:** Durfee, Mangiacotti, Post, Truman, Vitalos – 5 Present

**Absent:** Eller – 1 Absent

**Vacancy:** 3 Vacancies

**Also Present:** Steven P. Gruenberg, Esq., Board Attorney  
William Gleba, Board Engineer  
Paul Gleitz, Board Planner  
Ann Kilduff, Clerk

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

**MINUTES:**

**Regular Meeting – July 27, 2010**

Mr. Mangiacotti entertained additions or corrections to the minutes. Hearing none, it was moved by Post, seconded by Durfee, that the minutes of the regular meeting held July 27, 2010 be approved as submitted.

Roll Call: Durfee, Mangiacotti, and Post –  
Ayes: 3, Nays: 0, Abstained: 2 (Truman, Vitalos)  
Motion carried.

**RESOLUTIONS:**

**Appointment of the Board Planner**

It was moved by Post, seconded by Durfee, that Heyer, Gruel and Associates be appointed as Board Planner:

Roll Call: Durfee, Mangiacotti, Post, Truman and Vitalos –  
Ayes: 5, Nays: 0, Abstained: 0  
Motion carried.

**RESOLUTION 2010:4**  
**RESOLUTION AUTHORIZING 2010 PROFESSIONAL SERVICES CONTRACT**  
**WITH HEYER, GRUEL AND ASSOCIATES FOR BOARD OF ADJUSTMENT PLANNING**  
**SERVICES**

WHEREAS, the Board of Adjustment of the Borough of Washington has a need to contract the services of a Professional Planner as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.4 or 20.5 as appropriate; and

WHEREAS, the Purchasing Agent has certified that the costs of this contract may or will exceed \$17,500; and

WHEREAS, the anticipated term of this contract is through December 31, 2010; and

Board of Adjustment Minutes  
August 24, 2010

WHEREAS, Heyer, Gruel and Associates has submitted a fee schedule dated August 18, 2010 indicating they will provide the above-referenced services at the rates listed in their fee schedule for 2010; and

WHEREAS, Heyer, Gruel and Associates has completed and submitted a Business Entity Disclosure Certification which certifies that Heyer, Gruel and Associates has not made any reportable contributions to a political or candidate committee in the Borough of Washington in the previous one year, and that the contract will prohibit Heyer, Gruel and Associates from making any reportable contributions through the term of the contract, and

WHEREAS, the Chief Financial Officer will certify the availability of funds on an as-needed basis at the time when the Board of Adjustment needs the services provided by Heyer, Gruel and Associates.

NOW THEREFORE, BE IT RESOLVED that the Board of Adjustment of the Borough of Washington to enter into a contract with Heyer, Gruel and Associates as described herein; and,

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution; and

BE IT FURTHER RESOLVED that notice of this appointment will be published as required by law within ten days of the passage of this resolution; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to the Chief Financial Officer and Heyer, Gruel and Associates

**Case #2010:10 – Eric Phillips – 36 Taylor Street**

It was moved by Post, seconded by Durfee, that the resolution be adopted as approved at the July meeting, granting the construction of a single-family dwelling.

Roll Call: Durfee, Mangiacotti and Post –  
Ayes: 3, Nays: 0, Abstained: 2 (Truman, Vitalos)  
Motion carried.

**APPLICATIONS:**

**Case#2010:8 – Praful Patel/P&P of Washington – 66 Route 31 North, Block 56, Lot 1 – B1 Zone**

This application is filed for the purpose of expanding the commercial building 10' in the rear. In the Zoning officer's Refusal of Permit, this request is denied for the non-compliance with the provisions of Section(s) 94-30B and 73.3 of the Municipal Zoning ordinance for the following reasons: Site plan approval is required for all development when site plan exempt is not met and no lot shall have more than one principle use on it. This case has been continued from the July 27<sup>th</sup> meeting.

Mr. Stuart Ours, attorney for Mr. Patel in Mr. Lowcher's absence, stated he has received and reviewed correspondence from Mr. Gleba in regards to completeness and feels confident the application can proceed. Mr. Gleba stated page 3 of his completeness review lists items needed but feels they can be handled by testimony or through the public hearing process. He recommends the Board deem the application complete with waivers. Any information can be provided in written format if the Board is not satisfied with the testimony.

Board of Adjustment Minutes  
August 24, 2010

A motion was made by Post, seconded by Truman, granting waivers set by Mr. Gleba and therefore deem the application complete.

Roll Call: Durfee, Mangiacotti, Post, Truman and Vitalos –  
Ayes: 5, Nays: 0, Abstained: 0  
Motion carried.

Mr. Gruenberg stated the application has been deemed complete and the applicant has provided proof of notification with the hopes the application be deemed accordingly. As there are only five voting members present, it is up to the applicant if he would like to proceed. Mr. Ours stated the client is unable to attend tonight's meeting but is anxious to get started. He feels the testimony will continue to another meeting so in the interest of time, would like to proceed.

Mr. Gruenberg stated he has reviewed the application and proof of service. The Board has jurisdiction to hear this case. Anyone giving testimony tonight must come back to the next meeting.

Gary Dean, the applicant's engineer, was sworn in for his testimony. His professional qualifications as an expert traffic engineer/planner were proven and the Board accepted Mr. Dean. Mr. Dean stated he reviewed the site and met with the applicant and board engineer. He discussed the minor site plan dated August 12, 2010 and explained the two-way driveway on the property will be retained. He thanked Mr. Gleba for his comments. They will construct improvements on Gibson Place so the driveway is defined. They will retain four parking spaces used for employees on the northeast corner of the property. A pre-existing non-conforming residence remains on the property. The zone line is Adams Street so the residence is in a commercial zone. It will continue to be maintained as residential use. They are changing use from car repair to a liquor store which will generate more traffic. They approximate 20-25 vehicles per hour. This does not make any problems with the Department of Transportation. They will solicit confirmation with the NJ DOT as the change is provided in the permit.

Mr. Vitalos asked the distance between the liquor store and residence. Mr. Ours stated it is approximately seven feet. This will be discussed later in the testimony. Mr. Post asked the intentions of Gibson Place. Mr. Ours stated they will install a stop sign and propose to install curbing to create definition. This needs to be approved by the borough. At 60' wide, Gibson Place is an exceptionally wide right of way. The proposed changes will make it more of a typical residential street. Mr. Vitalos asked if there are any intentions to subdivide the lot. Mr. Gleitz stated there is no minimum lot size in the B1 Zone. The current property has three front and one side yard. The applicant may want to consider subdivision at this time as there are two principle uses on one lot. Mr. Ours feels the applicant will want to keep things as is. Mr. Gleitz stated a lot line adjustment is also a consideration. Mr. Dean stated the block is in the B1 Zone with a non-conforming use on the property. If they subdivide, they will exacerbate the violation of the zoning plan. Mr. Gruenberg noted it would eliminate one use variance request by changing the lot line.

Mr. Mangiacotti asked how many parking spots are needed and questioned Gibson Place. Mr. Gleba stated page 6 of his review speaks of Gibson Place. It has 50' of cart way instead of 30'. He will address this as part of his technical comments. Mr. Dean stated he will mark out the site and asked the Board to visit before the next meeting. They are required to have 14 parking spots; 15 are proposed. Mr. Gleba stated he would like to hear more about the operations to determine the parking situation.

Mr. Gruenberg opened the meeting to the public for questions of Mr. Dean.

Board of Adjustment Minutes  
August 24, 2010

Evelyn Morris asked if the function is going to meet all requirements of traffic patterns and business operations. Mr. Dean stated the use is permitted. The house is not. They will retain the driveway since most of the customers will use that. With an address of Route 31, people expect a driveway on Route 31. This will also defer most of the traffic from Gibson Place. Good site distance is available. Mr. Vitalos inquired about snow removal plans and asked if it will take up existing parking spaces. Mr. Dean will consult with the applicant, but feels snow will be placed on the south side of the property.

Jess Symonds of Biggs Engineering was sworn in for his testimony. His professional qualifications as a licensed professional engineer were proven and the Board accepted Mr. Symonds. Mr. Symonds stated he prepared the site plan. There are two existing lights and he was asked by Mr. Gleba to conduct a night light test. No further lighting is proposed unless the Board or engineer requires it. They are proposing a sign in between the two lights along Route 31 which was previously approved by the Zoning Officer. Mr. Gleitz stated the lights should be shielded and prefers .1 or .2 to give employees a safe walk to the door. Mr. Gleba requested the test results prior to the next meeting. Mr. Vitalos asked if the sign will be lighted. Mr. Symonds stated he will confer with the client. Mr. Gleitz stated two parking spaces do not have curb spots. Large delivery trucks could be accommodated. He is concerned with the three employee spots and two customer spots across from it. There is the potential cars will pull up too close and hit the other car. There needs to be physical barriers between the two spots. Mr. Gleitz inquired about the proposed landscaping. He suggested foundation planting under the signs to soften the front. Mr. Symonds stated site drainage will continue as is.

Mr. Gruenberg opened the meeting to the public for questions of Mr. Symonds.

Evelyn Morris asked the policies of the buffer between the residential and commercial zones. Mr. Symonds stated the property doesn't abut a residential zone. Mr. Gleitz stated Section 94-40 is not applicable to this application. Section 40-53C states parking spaces need to be buffered from residential. Currently there is no buffer on the south side and the applicant may not be able to meet this requirement and therefore be in need of a waiver. Space also needs to be maintained for maintenance of the outside of the building.

Mr. Ours stated there are no further witnesses and asked the discussion be tabled until the next meeting.

Mr. Post stated the intersection of Route 31 and Gibson Place is easy to enter, but not easy to exit onto Route 31 heading north. Mr. Ours feels the proposed curbing will be an improvement. Mr. Gleba stated he will discuss this with Mr. Dean.

Mr. Gruenberg advised the public the meeting will continue on September 28<sup>th</sup> at 8:00 pm. No further notice shall be given.

Hearing no further business in regards to this application, Mr. Gleba and Mr. Gleitz left the meeting at this point.

**Case #2010:5 – Raj Rathod/Krauszers – 41-43 W. Washington Avenue, Block 95, Lot 1 – B2 Zone**

This application is filed for the purpose of lighting a back-lit sign which is not allowed per section 94-62 of the Municipal Zoning Ordinance. The applicant has bypassed the Zoning Officer. The application was deemed complete at the June 22<sup>nd</sup> meeting. The applicant attended the July 27<sup>th</sup> meeting. One notice needed to be mailed.

Mr. Gruenberg stated he has reviewed the notices and found them to be in order. The Board has jurisdiction to hear this application. Mr. Raj Rathod was sworn in for his testimony.

Board of Adjustment Minutes  
August 24, 2010

Mr. Rathod stated his business suffers from the light not being lit. He is losing business as people either think the store is closed or they are afraid to come in. He is proposing a 3' x 6' free standing back lit sign which has been in place for 30 years. There have been no changes to the sign. He previously owned the store from 1994 thru 2006 and returned on February 1, 2009. Ms. Truman asked why the sign stopped being lit. Mr. Rathod stated he had sold the business and the new owner never took care of it. Mr. Post noted the store was closed and abandoned for eleven months. Mr. Post understands the applicant spoke to the Zoning Officer at the time and was aware of the ordinance for a back-lit sign. Mr. Durfee asked when the back-lit sign ruling took effect. Mr. Mangiacotti replied it is stated in Ordinance 3-2008.

Mr. Gruenberg stated if it is an abandonment, there needs to be a discontinuation of use and then used for something else. Here we have the same use. It can be considered an appeal of the Zoning Officer's refusal to sign the permit or be given variance relief. Mr. Rathod stated he has 300 signatures of customers in support of a lighted sign. Mr. Gruenberg stated the petitions can be marked as evidence but shouldn't be considered by the Board. People should be here in person in case the Board has questions. Mr. Post noted other businesses in the area have back lit signs. The board discussed the abandonment issue.

Mr. Mangiacotti entertained questions or comments from the audience.

Evelyn Morris stated she monitored the process of this application and feels issues of public safety have been uncovered. People support Mr. Rathod and activity in the store has diminished. There is no definition of abandonment in the ordinance. The sign has a 30 year history. She feels the ordinance is in place to create a uniform look. The Krauszers sign is part of the history of the town.

A motion was made by Truman, seconded by Vitalos, to close the audience portion of the meeting. All in favor with the exception of Mr. Post who abstained. Motion carried.

A motion was made by Truman, seconded by Vitalos, to grant the appeal of the Zoning Officer's refusal to issue a zoning permit based on the finding there was no abandonment based on the definition of abandonment.

Roll Call: Durfee, Mangiacotti, Truman and Vitalos –  
Ayes: 4, Nays: 0, Abstained: 1 (Post)  
Motion carried.

The Clerk will advise the Borough Manager and Zoning Officer of the Board's decision.

**Case #2010:9 – Pasquale Dattolo – 6 New Street, Block 18, Lots 4 & 5 – R3 Zone**

This application is filed for the purpose of enlarging the parking area at the roadway. In the Zoning Officer's Refusal of Permit, this request is denied for non-compliance with the provisions of Section(s) 94-53D and 53 K10 of the Municipal Zoning Ordinance for the following reasons: off-street parking areas containing 6 or more spaces shall have a concrete curbing around the perimeter and the maximum size of the drive apron shall be 15'. This application was tabled from the July 27<sup>th</sup> meeting.

Mr. Philip Dattolo, who will be speaking on behalf of his father, was sworn in for his testimony at the last meeting. Mr. Dattolo stated he did not approach the town in regards to the surveys. The property manager could not receive this information as he is not the owner. Per his review, the property lines on the paper road side are approximately 6'. Mr. Dattolo asked if there were any objections to the original plan. Mr. Gruenberg

Board of Adjustment Minutes  
August 24, 2010

replied they were hearing some resistance from the Board and therefore came up with alternative plans. Mr. Pasquale Dattolo feels the best way is to have a common area rather than sub-divide the lots.

Mr. Gruenberg noted two members of the Board were not present at the last meeting and have not heard the recording.

Mr. Pasquale Dattolo stated he will do more research and table the discussion until the next meeting. He can either present the Board with the current plan or an alternative plan.

Mr. Gruenberg stated the Board has permission to extend the time period and adjourn this application until the September 28<sup>th</sup> meeting. No further notice shall be given.

**REPORTS:**

There were no reports at this meeting.

**COMMUNICATIONS:**

The public notice regarding the Non-Residential Development Fee Act was received and explained by Mr. Gruenberg.

The July/August New Jersey Planner as well as an updated member listing were received.

**REMARKS:**

There were no remarks at this meeting.

Hearing no further business to come before the Board, a motion was made by Post, seconded by Truman, that the meeting be adjourned at 9:49 pm.

Ayes: 5, Nays: 0  
Motion carried.

Respectfully submitted,

Frank Mangiacotti, Secretary