

**WEST AMWELL TOWNSHIP  
ZONING BOARD OF ADJUSTMENT MEETING  
September 26, 2023 Minutes – 7:30 PM**

The West Amwell Township Zoning Board of Adjustment meeting was called to order at 7:30 PM by Vice Chairman Fulper.

The following statement of compliance with the Open Public Meetings Act as listed on the meeting agenda was read into the record by Vice Chairman Fulper: This meeting was called pursuant to the provisions of the Open Public Meetings Act. This meeting was included in a list of meetings transmitted to the Hunterdon County Democrat and the Times of Trenton on February 9, 2023. Notice has been posted accordingly and a copy of this notice is available to the public and is on file in the Office of the Zoning Board of Adjustment and Township Clerk.

Vice Chairman Fulper led the Pledge of Allegiance to the American Flag.

**Attendance – Roll Call**

**Present:** Mark Bowles  
Brian Fitting  
Rob Fulper  
Marvin “Tuck” Hartpence  
David Pasquale  
Jennifer Batchellor – Alt. #2  
Attorney Kevin Van Hise  
Engineer Tom Decker  
Planner Joanna Slagle

**Excused:** John Ashton  
Joe Romano  
Scott Greenwood – Alt. #1

**Presentation of Minutes – 6/27/23**

A motion was made by David Pasquale and seconded by Mark Bowles to approve the Board’s 6/27/23 minutes with no revisions noted. The motion was approved by voice vote with Mr. Hartpence and Ms. Batchellor abstaining.

**Resolutions of Approval**

It was noted for the record that there were no resolutions listed on the agenda for approval.

**Applications**

**Sheryl Simontis & Charles Davis – 172 Bowne Station Road – Block 6 Lot 14: Variance Application to Construct a 2-story Detached Garage on the Property**

Present for the application were property owners Sheryl Simontis and Charles Davis along with their Planner Brett Harris from Kyle McManus Planning.

Board Attorney Kevin Van Hise commented that the public notice was provided in accordance with the Municipal Land Use Law requirements and stated the Board had jurisdiction to proceed with the public hearing.

## Zoning Board of Adjustment Meeting Minutes – 9/26/23

Attorney Van Hise swore in all parties.

Sheryl Simontis and Charles Davis came forward. Ms. Simontis explained they are seeking approval to construct a 2-story detached garage on their property. She noted they require the following variance relief:  
Front yard setback for an accessory structure: 75 ft. required where 43 ft. is proposed  
Side yard setback for an accessory structure: 35 ft. required where 12 ft. is proposed  
Maximum height for an accessory structure: 15 ft. is allowed where 19 ft. is proposed  
Maximum impervious coverage: 15% is permitted where 16% is proposed

Ms. Simontis explained the garage will be located in an existing cleared area of their property and no trees will need to be cut down. There will be electric to the garage with service sized to accommodate an EV charging station for future needs, but no other utilities will be installed.

The subject site is a 1.5 acre lot with the proposed 36' x 27' garage to be located in the southwest corner. The garage will have a loft storage area and the appearance will resemble the existing home color with matching shutters.

There was some discussion on the existing home and garage with Mr. Davis explaining that they intend to convert one of the garage bays to a bedroom in the future to allow for their aging parents to reside with them on the first floor of their home.

Mr. Davis commented that he is a firefighter and responding to emergency calls during inclement weather can create delays if he has to remove snow and ice from his personal vehicle. He remarked the proposed new garage will enable them to park all of their vehicles inside.

Engineer Decker asked about drainage on the site. Mr. Davis explained there is a ditch between his property and neighbor John Sneddon of 164 Bowne Station Road. Mr. Sneddon was in attendance and was sworn in. He confirmed the ditch location and noted rain runoff naturally flows through that area and commented that he had no issue with the proposed new garage. Mr. Davis added that the garage will have gutters with all drainage directed toward the ditch. Engineer Decker suggested that a trench drain be put in between the garage doorway(s) to help mitigate any potential drainage problems.

Ms. Simontis noted the height variance is because the style of the proposed garage will be “cape cod” which is a taller architectural design.

With regard to the impervious coverage, it was noted the property is already at 15.3% where 15% is allowed. Mr. Davis explained they are proposing 16% and only extending the driveway minimally to accommodate the garage. Mr. Pasquale asked the Board’s professionals if they had any issues with the impervious coverage. Planner Slagle noted it is de minimis.

Planner Harris came forward and was sworn in. He provided his credentials to the Board and was accepted as an expert to provide testimony on the application. He gave a brief overview of the site stating it is an undersized lot in the RR4 Zone with an existing home, attached garage and related outbuildings.

Planner Harris presented **Exhibit A-1**: An aerial photo of the site dated September 2023.

## Zoning Board of Adjustment Meeting Minutes – 9/26/23

Planner Harris highlighted the following positive and negative criteria:

1. The proposed structure is permitted in the zone
2. The subject site is an undersized lot and the configuration along with the topography present a hardship in locating the garage in a more conforming spot due to the existing well and septic
3. The proposed garage maintains existing green space and provides a desirable visual environment
4. The proposed garage will have no negative effect on the site or streetscape
5. There is no substantial detriment to the Township Master Plan or zoning ordinances

Vice Chairman Fulper opened the floor to public comment. Seeing no members of the public come forward, he closed the floor to public comment.

A motion by David Pasquale, seconded by Mark Bowles to approve the application with the requested variances for setbacks, height and impervious coverage was unanimously approved by roll call vote.

### **CS Learning Properties, LLC – 1293 Route 179 – Block 7.01 Lot 10: Variance and Minor Site Plan Bifurcated Application to Create Additional Daycare Space and a Second Story Accessory Apartment**

Present for the application was Attorney Rich Mongelli, Planner/Architect Michal Burns and Happy Time School Owner/Operator Samantha Cheney.

Board Attorney Kevin Van Hise commented that the public notice was provided in accordance with the Municipal Land Use Law requirements and stated the Board had jurisdiction to proceed with the public hearing. He swore in all parties.

Attorney Mongelli explained the applicant is seeking to renovate the existing daycare to expand the business and add an apartment on the second floor. He noted both uses are permitted but a variance is needed for the proposed expansion. He indicated they are seeking use variance approval and then the preliminary and final site plan approval at a later date.

Planner/Architect Burns came forward. He provided his credentials to the Board and was accepted as an expert to provide testimony on the application.

Planner/Architect Burns explained they are seeking a use variance because of the two principal uses on the property: The daycare and the proposed residential apartment. He then gave an overview of the site highlighting the following details:

The property is in the Light Industrial Zone

The site is 11.9 acres

The daycare building is a 1.5 story structure

There is a 3 car detached garage on the lot

There is a 1-story block storage building in the rear of the property

There is parking adjacent to Route 179 which extends behind the daycare building

There are 11 parking spaces for the daycare, 3 spaces behind the building and 6 spaces throughout the site

The septic system is behind the garage

The property is subject to a 150' gas pipeline easement

Planner/Architect Burns commented that the daycare is a permitted use in the zone but noted the required front yard setback is 150 feet with all 3 existing structures in violation of the setback.

## Zoning Board of Adjustment Meeting Minutes – 9/26/23

There was some discussion on the Township having no record of any Board approval for the daycare facility. Planner/Architect Burns noted he designed the interior of the building in 2003. Planner Slagle remarked that she believes the facility operator received approval from the DCA, but nothing from the Township and suggested the Board consider granting variance approval for that as well to clean up the record.

Ms. Cheney stated that Happy Time School has agreed to take in some children from Lambertville Public School while that facility is being renovated. She noted they have received a C.O. from the Township Construction Office. Attorney Mongelli commented that they have a zoning permit for the use of the building as a daycare. Attorney Van Hise indicated if the Board approves the application, he will clarify the daycare use in the Resolution.

Planner/Architect Burns explained the 1-story concrete block structure in the rear of the property is currently being used as a garage/storage space. He indicated the building also contains a small utility room and they intend to convert 1000 sq. ft. of space to expand the existing daycare facility and add a residential apartment above the building. Ms. Cheney stated they will reconfigure the entry for the safety of the students and the privacy of the potential tenant.

Planner/ Architect Burns noted the apartment will have its own separate entrance. The residential unit will be a 1620 sq. ft. 2 bedroom apartment consisting of a kitchen, living room, dining room, 2 bathrooms, a utility room and a 650 sq. ft. deck.

Vice Chairman Fulper asked if the apartment is tied to the daycare. Planner/Architect Burns stated their intention is to have a daycare employee reside there. He also clarified that the conditions for an apartment are 5 acres, a separate entrance and 1 accessory dwelling. He noted that they meet all of the setbacks for an accessory dwelling but the garage and the existing daycare building don't meet the required setbacks. Planner/Architect Burns stated they meet all of the parking requirements and have applied to the County Board of Health for an expansion of the existing septic.

Planner/Architect Burns commented on the variances saying the single family home is permitted, the proposed expansion of the daycare facility is permitted but the accessory apartment is conditionally permitted. They need permission to allow 2 principal dwellings on the site.

Planner/Architect Burns noted the following positive and negative criteria:

The use on the property is permitted

The use is suitable to the location and has coexisted with the residence since 2004

The Municipal Land Use Law considers the use inherently beneficial

The proposed application supports the Master Plan

The project promotes the health and welfare of the community

The project promotes sufficient space to meet the needs of NJ citizens

The application encourages the repurpose of structures to accommodate expansion

The project promotes job opportunities

The project promotes diversity of housing

There is no detriment to the public good or the intent of the zone plan or Master Plan

## Zoning Board of Adjustment Meeting Minutes – 9/26/23

Planner/Architect Burns commented on the apartment needing a conditional use and said he doesn't agree because he believes they meet all of the conditions. He highlighted the following details:

The building where the apartment will be constructed meets the setback requirements

They conform with the parking requirements for the proposed apartment

The apartment does not create any detriment to the public good or the zone plan

The apartment promotes the 2021 Master Plan and the NJ Redevelopment Plan

All of the proposed uses are permitted in the Light Industrial Zone

The proposed apartment will not have a negative impact on the community

Engineer Decker asked for clarification on the number of students in the daycare noting the plans show 60 but the Board of Health application shows 79. Ms. Cheney clarified the increase is for anticipated expansion. She commented that Happy Time School has a total of 59 students enrolled with 15 from Lambertville Public School. She noted only about 52 to 53 students actually show up each day along with 14 to 15 employees.

Mr. Pasquale asked about stormwater management and referenced the 8/8/23 memo from Engineer Decker. It was noted that the DRCC determined the project meets the criteria for stormwater management. Planner/Architect Burns explained that the application is bi-furcated because after 1980 the DRCC changed the criteria to state that a quarter acre or more of disturbance requires stormwater management. He clarified that parking was added to the site after 1980 but since it already exists and since they are not proposing any changes, stormwater management is a mute point.

Mr. Hartpence inquired about the safety of the students between the two buildings. Planner/Architect Burns stated there is a play area with fencing from building to building to create a secure area.

Planner Slagle acknowledged that the intent of the apartment is for an employee to reside above the daycare, but asked about potential deliveries from Amazon or Fedex. Ms. Cheney noted that all deliveries are always made to the front building and drivers never go to the back of the property. She also commented that even though they anticipate renting the apartment to an employee she doesn't want to be restricted to doing so. Ms. Cheney confirmed that anyone residing in the apartment would be subject to a background check.

Mr. Fitting asked if the apartment stairway entrance will be blocked from the daycare. Ms. Cheney said yes and explained the door will only allow a resident to get into the apartment area and only allow students to be able to exit in the event of an emergency. Mr. Fitting understood the one-way locking operation of the door but expressed concern with the proximity of the entrance to the daycare saying it really isn't a true separation. Mr. Pasquale agreed. Planner/Architect Burns commented that the Division of Child Protection and Permanency (DCP&P) will be required to weigh in on the security.

Ms. Batchellor asked why the apartment is needed. Ms. Cheney stated they could just expand the daycare without the apartment if the Board was not inclined to approve the application.

Planner Slagle asked if there will be designated parking areas for the tenants. Ms. Cheney said yes.

Attorney Mongelli summarized that they are seeking the following variance approval:

D1 – to address the 2004 creation of the daycare resulting in two principal uses on the property

D2/Conditional Use – for the proposed apartment

## Zoning Board of Adjustment Meeting Minutes – 9/26/23

D2 – for the expansion of the daycare facility

Bulk variances for all of the pre-existing non-conforming conditions

Vice Chairman Fulper opened the floor to public comment. Seeing no members of the public who wished to comment on the application, he closed the floor to public comment.

A motion was made by David Pasquale and seconded by Tuck Hartpence to approve the application with all of the requested variances. The motion was unanimously approved by roll call vote.

### **Approval of Vouchers**

A motion was made by Mark Bowles and seconded by David Pasquale to approve the vouchers for payment as listed on the agenda. The motion was unanimously approved by voice vote.

### **Comments from the Board Members**

It was noted for the record that no comments were made by any of the board members.

### **Open to the Public**

It was noted for the record that there were no members of the public present at the meeting at this time.

### **Closed Session**

The Board did not enter into Closed Session.

### **Adjournment**

A motion by Jen Batchellor, seconded by David Pasquale to adjourn the meeting was unanimously approved by voice vote.

The meeting adjourned at 9:30 PM.

---

Maria Andrews, Zoning Board Secretary