

**WEST AMWELL TOWNSHIP**  
**ZONING BOARD OF ADJUSTMENT**  
**REGULAR MEETING**  
**September 27, 2016**

The West Amwell Township Zoning Board of Adjustment regular meeting was called to order at 7:36PM by Chairman Fulper.

The following statement of compliance with the Open Public Meetings Law as listed on the meeting agenda was summarized by Chairman Fulper: This meeting is called pursuant to the provisions of the Open Public Meetings Law. This meeting was transmitted to the Hunterdon County Democrat and Trenton Times on February 4, 2016. Notice has been posted accordingly and a copy of this notice is available to the public and is on file in the Zoning Board of Adjustment Office. The meeting was recorded via digital recording system and a copy of the CD is on file in the Zoning Board of Adjustment Office.

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

**APPOINTMENTS/OATH OF OFFICE:**

None

**ATTENDANCE/ROLL CALL:**

Roll call on attendance: John Cronce-present, Brian Fitting-present, Joe Romano-present, Ruth Hall present, John Ashton-present, Kevin Koveloski-present, Frank Sabatino (*alt.#1*)-present, George Fisher (*alt.#2*)-present, Robert Fulper-present

Absent: 0

Professionals Present: Stewart Palilonis, Board Attorney; Tom Decker, Board Engineer; Jim Kyle, Board Planner

**PRESENTATION OF MINUTES:**

Meeting Minutes – July 26, 2016 - Motion was made by Ashton with a second by Fitting to accept the minutes as presented. Roll call: Cronce-aye, Fitting-aye, Romano-aye, Hall-aye, Ashton-aye, Koveloski-aye, Fulper-aye

Meeting Minutes – August 23, 2016 – carried to October

**RESOLUTION(S) OF APPROVAL:**

**1872 River Road (The Generals Retreat) – Block 26 Lot 17**

Property owner Michael Ehrenreich was present to discuss the hours of the establishment as listed in paragraph 8. Stating the testimony, as discussed, was never meant to be binding hours, rather bound in general to whatever West Amwell ordinances are to opening and closing restaurants or shops. And was suggested by this board to modify from the original proposed time of 10pm to 11pm.

Based on discussion by the Board, the following revision was made to the resolution.

Revise resolution page 1-a, last sentence, will be changed to “the restaurant would be open from 7 A.M to 12 A.M. for the restaurant, and 10 A.M. to 8 P.M. for the shop.

Page 2

Other revisions included changing SH (State Highway) to SR (State Route) in item a. Member Romano stated there were a number of things that needed to be worked out between the engineer and attorney, Stating there were a number of things that weren't memorialized in the resolution with regard to the escrow. There is a line item that is very general regarding this.

Chairman Fulper stated that he spoke with Engineer Decker regarding this, it is the solid waste control devise that has the high maintenance, the vortex chamber. Mr. Romano stated it was identified in the meeting that there is an engineering report that dictated when this chamber would be inspected and maintained.

Engineer Decker stated that we have not received the maintenance manual for the underground detention and vortex units.

Romano suggested the maintenance should be memorialized in the resolution. Suggesting also that the basic items such as when the twp engineer goes out to inspect, a number of items with the escrow, the maintenance, and the follow up inspections, should all be crafted into the resolution.

Mr. Ehrenreich stated that at the last meeting it was estimated at about five hours per year, about a thousand dollars in escrow, not a major item for them, it was agreed to. Also stating that they have an operations manual put together by their engineer.

Chairman Fulper stated that it isn't to put more restrictions on them but to look at the wording and incorporate and memorialize it into the resolution so it's on the record. In a few years from now everyone can look at the resolution and identify what the situation is.

Resolution carried to next month, revisions to be made.

#### **APPLICATION(S):**

**Public Hearing: – Paul King – Block 32 Lot 19 -30 Barry Road – Accessory Apartment**

Chairman Fulper notified the public that the Paul King application is being carried to the October 25, 2016 meeting with no additional notice necessary. (8:01 P.M.)

*Chairman Fulper related that there would be a change in the order of agenda, hearing Barnyard Ventures completeness determination first.*

**Completeness Determination: – Barnyard Ventures Block 14 Lot 20 – 530 Route 31 Ringoes – Expansion of a Nonconforming Use (8:02 P.M)**

Alex Greenwood, owner, appeared on behalf of Barnyard Ventures.

Secretary Hall stated that the application was administratively complete to the *Checklist*. Chairman Fulper stated the application has been deemed complete based on Secretary Hall's recommendation.

Motion was made by Romano with a second by Koveloski to deem the application complete. Roll call: Cronce-aye, Fitting-aye, Romano-aye, Hall-aye, Ashton-aye, Koveloski-aye, Fulper-aye

**Public Hearing: – Joseph & Denise D'Agostino Block 8 Lot 52.02 – 1410 Hwy 179 – Conditional Use variance (8:04 P.M)**

Application, Checklist, plan titled Plan of Survey comprised of one sheet prepared by Goldenbaum Bail Assoc., Inc., dated 10/12/04 were received and distributed.

Page 3

Notices of service and publication were previously reviewed by Attorney Palilonis and found to be in order

The following witnesses present on behalf of the applicant were sworn in by Attorney Palilonis:

Joseph D'Agostino, Property owner – 1410 Hwy 179, West Amwell, NJ

Mr. D'Agostino provided a brief history of the property stating he purchased the property two years ago, being built forty years ago by Doc Muller, a local veterinarian. At the time of construction it was mixed use orientated and still is today. It had a veterinarian office and apartments in the building. Stating the third floor tenant has been there for 28 years.

Stating that he purchased the property in August 2015, the appraisal review at that time showed the allowance of mixed use. A brief review of the appraisal states three of the four units leased, including a section eight, and a fourth unit was vacant with furniture, kitchen and full bath.

Mr. D'Agostino stated that he renovated all of the apartments, fire inspection was performed. Presently there is four tenants in the property. The approach from the beginning was to provide nice apartments to local residents. Stating that care is taken in every aspect of upgrades, with safety, cleanliness, and neatness in mind.

Stating that after renovations he applied for refinance, the new appraiser said that he was not in compliance with zoning. Stating that it was an unauthorized operation of a multifamily dwelling in RR-5 and was told to contact the township, at which time they applied for a change of use with the Zoning Office and were denied.

Chris Rose, Zoning Officer was sworn in by Attorney Palilonis. A copy of the denial was provided to Officer Rose. Mr. Rose stated that it was a veterinarian office and changed back to apartment. Stating that he filled out a zoning application, it was a vet's office and he changed it back to an apartment. Adding that the work was already done without permits.

Mr. D'Agostino stated that it was an apartment when they bought it, it had a kitchen, a full bath and it had furniture in it. Opining that it was not a veterinarian office when purchased.

Mr. D'Agostino stated that he was told he needed a variance to change it back to residential, but was denied.

Chairman Fulper stated that this is the Board to ask for a variance, and didn't ask us yet, but say you were denied.

Mr. D'Agostino stated, to clarify, he is not asking for any change in zoning or variance, he just wants to continue using the property the way it has been used for the last forty years; mixed use.

Attorney Palilonis stated that the veterinarian's office was illegally, under the zoning ordinance, changed to a residential apartment. Stating that a variance is required for the fourth unit. Unless there is something on the record stating they were allowed to convert the vet's office to an apartment.

Secretary Hall provided copies from the Zoning and Construction office for this block and lot, there was nothing indicating an allowed conversion.

Page 4

Mr. D'Agostino testified that at the time of purchase, the fourth residential unit was in place, it was vacant but appeared to be an apartment. It had a full kitchen and bathroom, and had furniture in it. Stating that his understanding of mixed use was that it could be used as either/or.

Mr. D'Agostino stated that he preferred to leave it as a mixed use, RR-5 and HC. Adding that he just wants to occupy the property safely and legally.

Mr. Palilonis stated that the property is in the HC zone, not RR-5.

Mr. Palilonis stated that in July 2015 a septic application submitted to the HC Board of Health was denied.

The following witnesses present on behalf of the applicant were sworn in by Attorney Palilonis:

Bela Rossmann, Project Manager, New Hope, PA – Mr. Rossmann stated that the property is a non-conforming mixed-use property in the RR-5 district. There were four apartment's when the property was purchased, prior to that they were aware that there was a vet's office, but it was not a vet's office at the time of purchase. Stating that they updated all of the apartments except the third story one-bedroom apartment, there was no material structural changes when they updated the apartments. The septic system is a six bedroom system approve by the county. The prior owner was looking to possibly expand the property to put more apartments but never followed through and offered the engineering that was done but they had no use for it. Adding that they have not exceeded the six-bedroom limitation.

Discussion continued regarding the zone, while the tax records reflect RR-5, it appeared that the correct zone is HC as reflected on the zone map.

Mr. D'Agostino stated they are looking for a variance that will allow then to continue to operate the property as a residential rental property.

Mr. Palilonis stated that a conditional use variance would be required, discussion ensued regarding the conditional use variance. Mr. D'Agostino stated would like to proceed with a conditional use variance

Mr. Palilonis stated that additional information would be necessary to continue with a D-3 conditional use application, referring to the Board professionals for their input.

Planner Kyle reviewed the conditions for a conditional use variance, because of a conservation easement granted on the property not clearly depicted on the submitted map, members of the Board suggested we request a copy of the survey.

Chairman Fulper related to the applicant the Board is requesting additional information including verification that the septic system is designed for six bedrooms, boundary and location survey, adding also that our planner will provide a review of the application identifying what is required to present to the Board.

*Chairman Fulper opened the floor to the public: (8:48 PM)*

Judy Nanni, 1414 Route 179, stated that she received her notice from Mr. D'Agostino and referred to the zoning map and realized she was HC. Ms. Nanni related her personal concerns with being zoned HC and would prefer to be zoned residential.

*Hearing no additional comments from the public the floor was closed: (8:52 PM)*

Page 5

Motion was made by Ashton with a second by Fisher to carry the application to the October 25, 2016 meeting. No additional notice will be made. Roll call: Cronic-aye, Fitting-aye, Romano-aye, Hall-aye, Ashton-aye, Koveloski-aye, Fulper-aye

*Chairman Fulper advised the applicant to keep in touch with Secretary Hall for resubmittal deadlines.*

*Chairman Fulper related that there would be a brief recess at this time – Meeting recessed 8:55 PM -9:04PM)*

**Completeness Determination/Public Hearing: – Vernor/Lubchansky (A-Z Venue Management, LLC) – Block 11 Lot 28 – 16 Mill Road** – Conditional Use variance (9:04 PM)

Jonas Singer, attorney for the applicant, appeared on behalf of the applicant A-Z Venue Management LLC. Application form dated May 21, 2016, Checklist dated May 31, 2016, Plan titled “Variance and Plot Plan for Brookmill Farm, Lot 28 in Block 11” as prepared by Hopewell Valley Engineering, PC dated February 10, 2014, Reduced and illegible copy of plan titled “Topographic Survey of Brookmill Farm, Lot 28, Blk 11” date of preparation is illegible, print of heavily pixelated aerial photograph with a heading of “Zachary Lubchansky, 16 Mill Rd, Lambertville, NJ”, Letter dated April 12, 2016 from West Amwell Construction Official regarding open building permits, Letter dated April 26, 2016 from West Amwell Construction Official advising that Conditional Use approval from the Zoning Board of Adjustment is required, Email dated May 26, 2016 from the West Amwell Zoning Officer issuing a Cease and Desist Order, Email from the West Amwell Construction Office Coordinator regarding Certificate of Occupancy requirements, were received and distributed.

See attached transcript dated September 27, 2016, prepared by Donna Brunck, Certified Court Reporter, Guy J. Renzi & Associates, INC. Trenton NJ - present on behalf of the applicant A-Z Venue Management LLC

Applicant and members of the public were advised that the public hearing would be continued to the October 25, 2016 meeting of the Board at 7:30 PM. No additional notice will be made.

**CORRESPONDENCE:**

The following items were received and distributed as correspondence:

8/30/16 email – Russ Smith/Mostofizadeh : re follow up on request for “1-year extension”

9/2/16 email – Ken Smith Blk 30 Lot 10.01 639 Brunswick Pick withdrawing application, requested refund of fee and escrow.

9/15/16 forwarded email fr Clerk Olsen/Mayor Rich re: Brookmill resident letter

9/15/16 email Clerk Olsen re: passing of former member John Dale’s father

9/16/16 email correspondence from Attorney Lanza – re: A-Z Venue Management

9/16/16 email request from Attorney Lanza for procedural history on Blk 11 Lot 28, Procedural history provided 9/18/16

9/20/16 email from Attorney Chou re: Vernor Blk 11 Lot 28 variance extension request

Page 6

**Approval of Bill List 9/27/16:**

A motion by Cronce seconded by Ashton to approve the vouchers for payment as listed on the 8/23/16 bill list was unanimously approved by voice vote – all ayes.

**DISCUSSION:**

Secretary Hall advised that she received her re-certification for Planning/Zoning Secretary, good for another 5 years through 2020. Advising that she will need to obtain 15 continuing education credits within that time period.

**OPEN TO PUBLIC:**

The floor was opened to the public. Hearing no comments/questions, the floor was closed. (11:00 P.M.)

**ADJOURNMENT:**

All members voted in favor of adjournment at 11:00 P.M.

Respectfully submitted,

Ruth J. Hall