

WEST AMWELL TOWNSHIP
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
November 22, 2016

The West Amwell Township Zoning Board of Adjustment regular meeting was called to order at 7:41 PM 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, Ruth Hall-present, John Ashton-present, Kevin Koveloski-present, George Fisher (*alt #2*)-present, Robert Fulper-present

Absent: Joe Romano, Frank Sabatino (*alt #1*) - absent

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

PRESENTATION OF MINUTES:

Meeting Minutes - August 23, 2016 - Motion was made by Ashton with a second by Fisher (*alt #2*) to accept the minutes as presented with attached Generals Retreat partial transcript dated 8/23/16. Roll call: Cronce-aye, Fitting-abstain, Hall-aye, Ashton-aye, Koveloski-aye, Fisher (*alt #2*)-aye, Fulper-aye

Meeting Minutes - October 25, 2016- Motion was made by Fitting with a second by Cronce to accept the minutes as presented. Roll call: Cronce-aye, Fitting-aye, Hall-aye, Ashton-abstain, Koveloski-abstain, Fisher (*alt #2*)-abstain, Fulper-aye

RESOLUTION(S) OF APPROVAL: NONE

Chairman Fulper noting that the Vernor/Lubchansky application is being carried to a special meeting on Monday, November 28, 2016 as indicated on the agenda.

APPLICATION(S):

Completeness Determination/Public Hearing: Vernor/Lubchansky (A-Z Venue Management, LLC) – Block 11 Lot 28 – 16 Mill Road – Conditional Use variance **Carried** (carried to special meeting-Nov 28)

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

Chairman Fulper notified the public that the applicant requested not to be heard at this time and will pursue the matter at a later date, noting that the applicant is also requesting any escrow balance be returned.

Motion was made by Ashton with a second by Fisher (alt #2) to dismiss the King application without prejudice for lack of prosecution. Roll call: Cronce-aye, Fitting-aye, Hall-aye, Ashton-aye, Koveloski-aye, Fisher (alt #2)-aye, Fulper-aye (7:48 P.M.)

Public Hearing: – Barnyard Ventures Block 14 Lot 20 – 530 Route 31 Ringoes – Expansion of a nonconforming use (Carried)

Chairman Fulper notified the public that the Barnyard Ventures application is being carried to the January 24, 2017 meeting with no additional notice necessary. Applicant agreed to extension if one was necessary. (7:52 P.M.)

Chairman Fulper related that there would be a change in the order of agenda,

Public Hearing: Vernor - Block 11 Lot 28 16 Mill Road – Request for Extension of Variance Approval (resolution 2014-09). (7:53 P.M.)
Letter dated October 10, 2016 received and distributed.

Attorney Henry Chou was present on behalf of the applicant, stating they are requesting a one-year extension on the C variance granted on May 27, 2014, stating the variance was granted for renovations and improvements in the aftermath of tropical storm Irene and hurricane Sandy without the necessary approvals and permits. The approval was conditioned upon obtaining a DEP Flood Hazard permit.

Mr. Chou stated they are still in the process of obtaining the DEP permit, adding that during the past year (DEP) staff was replaced and with new staff additional submissions were requested. Adding that in the summer *Flood Hazard Area* rules were dramatically overhauled, requiring revised application being submitted.

Mr. Chou added they understand there is separate use variance application before the Board, stating this has nothing to do with that application, the approval granted back in 2014 was for residential use. Whether that application is granted or not the Vernor's still need the bridge, the pool pump house and the porch for residential purposes. Adding that they don't view this as being any part of that application. Stating this was clear in the litigation, we have a consent order where the township special council acknowledged this.

Present on behalf of the applicant: Russel Smith, Engineer, Hopewell Valley Engineering

Attorney Palilonis questioned whether the application has been deemed complete with DEP, Mr. Smith stated that it has not. DEP has been throwing it back and forth between the Enforcement Group and the Permit Group stating they are working with them now to determine how the improvements that were made after tropical storm Irene fit into the new rules, adding they are very close to having that established and having an agreement with them. Explaining that in December, right after the previous extension was granted, DEP visited the site, with new staff, and determined that additional studies with new surveys were required. Stating that the studies and surveys were completed, meeting again with DEP in February to establish exactly what the plan would be and completed all that work and in June were told they had to conform to the new rules. Stating the application has not been deemed complete, they have filed a

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statement of compliance with DEP and is being reviewed. Plans and calculations have been reviewed but the application has not been deemed complete. And there for the request for another year extension is necessary, although not expecting to need the entire year.

Board discussion ensued questioning whether the property has received *certificates of occupancy* for the renovation permits in question.

Board member Cronce suggested a six-month extension, Mr. Chou agreed.

Chairman Fulper opened the floor to the public for comments/questions (8:06 P.M.)

Ed DiFiglia – Municipal Policy Specialist, Stony Brook Millstone Watershed Association, Pennington
Mr. DiFiglia stated they also had concerns on the length of time this application was taking since it is a C-1 stream and was going to urge that we consider a six-month extension rather than a full year.

Hearing no other comments/questions, the floor was closed to the public (8:07 P.M.)

Motion was made by Cronce with a second by Fisher (alt #2) to grant an additional (six-month) extension of the “c” variance granted on May 27, 2014 by way of Resolution ZBA2014-09 Roll call: Cronce-aye, Fitting-aye, Hall-aye, Ashton-aye, Koveloski-aye, Fisher (alt #2)-aye, Fulper-aye (8:07 P.M.)

Public Hearing: – Joseph & Denise D’Agostino Block 8 Lot 52.0
1410 Hwy 179 – Conditional Use variance (8:08 P.M.)

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

Homeowner Joseph D’Agostino was reminded he is still under oath. Mr. D’Agostino stated that he dropped off a copy of the site survey letter and a septic report. Planner Kyle stated that he received a copy and is satisfied. The drainage easement being the concern and is shown on the survey, adding that Goldenbaum Baill Engineers certified any changes to the survey. Mr. Kyle agreed that the survey represents the property.

(Chairman Fulper related that there would be a brief recess at this time – Meeting recessed 8:10 PM – 8:12 PM)

Mr. Rossman, project manager, stated that a letter regarding septic approval was expected from the Hunterdon County Division of Health, adding that a letter from Goldenbaum Baill Engineers was sent to the Hunterdon County Division of Health regarding the septic. A copy of said letter is to be forwarded to Secretary Hall. The letter outlined the property use and number of bedrooms, stating no malfunctions of the septic system.

Mr. D’Agostino stated they were requesting a variance for a conditional use permit. Mr. Kyle referred to his Review Letter dated Oct. 18, 2016, page 2. Stating they need relief for the units on the ground floor, otherwise are not permitted. Adding that the structure is more of a residential structure than commercial, it has plenty of parking, fairly isolated, activity level won’t change.

Mr. D’Agostino stated they want to have four apartments, adding that it is built more like a bank house unlike a commercial structure it lends itself towards residential, but also offers the ability for handicap

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accessibility directly off the parking in a residential type setting and not a commercial type setting. Requesting the Board grant the approval.

In Response to questioning by Attorney Palilonis, Mr. D'Agostino stated they took title to the property in August 2015. Stating that permits were taken out by the prior owner for work done, the fire inspector was out a year ago and went through the property, but unsure of the certificate of occupancy. Mr. Palilonis asked how long it has had four apartments, in response Mr. D'Agostino stated from their understanding it had four apartments when they bought it. Stating they were told it was never given a change of use from the vets office to another apartment, which is why they are before the board.

Adding that they were going to refinance the property when there was a conflict of interest between the tax authority and the building depart. Stating that it was assessed as a four unit apartment when he was out assessing things at some point but when checked with the building department they said there was never a change of use from the vets office to the four unit apartment.

Member Cronce stated in his opinion approving the variance for ground floor units won't impact the neighborhood at all. Adding the house fits the neighborhood, opining it looks like a residential house.

Chairman Fulper opened the floor to the public for questioning, hearing none the floor was closed (8:27 pm)

Attorney Palilonis questioned the positive criteria that the Board is considering, Mr. Kyle questioned if the Board thinks this site continues to be suitable despite the fact that they want to put ground floor units, stating that is the test for a D-3 variance.

Attorney Palilonis stated that this is a conditional use, a D-3, adding that we would be grating relief from the condition that the first floor being commercial use. Adding that a variance would be required to revert back to commercial use.

Mr. D'Agostino clarified that there are two apartments on the first floor, one apartment on the second floor, and one apartment on the third floor.

Motion made by Fisher with a second by Koveloski to grant relief from the requirement of having a commercial component on the first floor and allowing to have two dwelling units on the first floor. Contingent upon receiving a letter of approval from the Board of Health that its septic disposal system is adequate for four apartments. Roll call: Cronce-aye, Fitting-aye, Hall-aye, Ashton-aye, Koveloski-aye, Fisher (*alt #2*)-aye, Fulper-aye. (8:36 pm)

CORRESPONDENCE:

The following items were received and distributed as correspondence:

Zoning Denial – Blk 13 Lot 61.07 214 Rocktown –Lambertville Rd pole barn **side yard setbacks**

11/4/16 **Attorney Lanza letter** re: A-Z Venue Management (Brookmill Farm)

11/4/16 FYI Clerk Olsen **Certificate of Insurance** re: A-Z Venue Management (Brookmill Farm)

11/14/16 email Engineer Decker re: **General Retreat** easement issue

11/16/16 email re: **Blk 30 Lot 16** application update.

11/18/16 **Attorney Singer letter** re: A-Z Venue Management (Brookmill Farm)

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CORRESPONDENCE: cont.

Sept/Oct Planner

Zoning Denial – Blk 29 Lot 18.01 315 Goat Hill Road existing accessory dwelling

Construction Office Holiday Open House Invitation

Approval of Bill List 11/22/16:

A motion by Fitting seconded by Cronce to approve the vouchers for payment as listed on the 11/22/16 bill list was unanimously approved by voice vote – all ayes.

DISCUSSION:

Attorney Palilonis stated he received a call from Chris Rose regarding Chimney Hill, advising Mr. Rose to call township Attorney Faherty.

Attorney Palilonis stated he received a call from the Zoning Office regarding garages, stating someone had applied for a garage over 500 sf. and was denied. The applicant's attorney provided a copy of 109-17:d. Attorney Palilonis agreed with the provision and the denial would require being changed.

It was suggested Mr. Rose attend the regular Zoning Board meetings.

OPEN TO PUBLIC:

The floor was opened to the public. Hearing no comments/questions, the floor was closed. (8:55 P.M.)

ADJOURNMENT:

All members voted in favor of adjournment at 8:55 P.M.

Respectfully submitted,

Ruth J. Hall