

WEST AMWELL TOWNSHIP
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
January 24, 2017

The West Amwell Township Zoning Board of Adjustment regular meeting was called to order at 7:38PM 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 January 9, 2017. 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, Ruth Hall-present, John Ashton-present, Kevin Koveloski-present, George Fisher (alt#2)-present, Robert Fulper-present

Absent: Brian Fitting, Joe Romano, Frank Sabatino (alt.#1)

Professionals Present: Stewart Palilonis, Board Attorney

NOMINATIONS/APPOINTMENTS: None

PRESENTATION OF MINUTES:

Meeting Minutes – September 27, 2016 - Motion was made by Fisher (alt#2) with a second by Ashton to accept the minutes with minor change as discussed. Roll call: Cronce-aye, Hall-aye, Ashton-aye, Koveloski-aye, Fisher (alt #2)-aye, Fulper-aye

Meeting Minutes – November 22, 2016 - Motion was made by Fisher (alt#2) with a second by Ashton to accept the minutes with minor change as discussed. Roll call: Cronce-aye, Hall-aye, Ashton-aye, Koveloski-aye, Fisher (alt #2)-aye, Fulper-aye

Special Meeting Minutes – November 28, 2016 - Motion was made by Fisher (alt#2) with a second by Cronce to accept the minutes with minor change as discussed. Roll call: Cronce-aye, Hall-aye, Ashton-abstain, Koveloski- abstain, Fisher (alt #2)-aye, Fulper-aye

RESOLUTION(S) OF APPROVAL:

Vernor/Lubchansky (A-Z Venue Management, LLC) – Block 11 Lot 28-16 Mill Road

Motion was made by Cronce with a second by Fisher (alt #2) to accept the resolution with correction after confirmation if necessary as discussed. Roll call: Cronce-aye, Hall-aye, Fisher (alt #2)-aye, Fulper-aye

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APPLICATION(S):

Public Hearing: – Barnyard Ventures Block 14 Lot 20 – 530 Route 31 Ringoes – Expansion of a Nonconforming Use (carried to February 28 meeting) (7:54 pm)

Chairman Fulper advised that the Barnyard Ventures applications would be carried to the February 28 meeting.

Chairman Fulper announced that there would be a change in the agenda order of business, moving the Rago application for completeness to the next item on the agenda.

Board member John Ashton recused himself from the David Rago application, stating he is a property owner within 200ft. Mr. Ashton left the meeting room at this time.

Completeness Determination/Public Hearing: – David Rago Realty, Inc. Block 16 Lot 17.02 – 638 Brunswick Pike (333 N.Main St., Lambertville) – use variance (7:55pm)

Rich Mongelli, attorney for the applicant, appeared on behalf of the applicant, David Rago Realty, Inc. Mr. Mongelli stated they received a completeness report from Engineer Decker and agreed on the completeness recommendation, stating they would be ready for a public hearing in February.

Chairman Fulper stated that our engineer, Tom Decker provided a completeness letter recommending the application be deemed complete.

Motion was made by Cronce with a second by Fisher (alt #2) to deem the application complete. Roll call: Cronce-aye, Hall-aye, Koveloski-aye, Fisher (alt #2)-aye, Fulper-aye

Board member John Aston returned to the meeting at this time

Variance Extension Request: Mostofizadeh - Block 21 Lot 12.01 438 Route 31 request for (1) year extension of minor sub-division approval (resolution 2010-14) (7:58 PM)

Letter of Request for variance extension was received and distributed.

Russell Smith of Hopewell Valley Engineering was present on behalf of the applicant, stating they are requesting a one-year extension of the minor sub-division granted, resolution 2010-14. Adding that the application was prepared by Heritage Consulting Engineers, no longer in business, stating they never completed perfecting the approval that was granted. The one remaining condition they did not address was soil testing for the proposed lot.

Mr. Smith stated that Hopewell Valley Engineering and Ted Bayer from Bayer-Risse Engineering has been hired to help the applicant perfect this approval, and therefore requesting a one year extension of that approval to allow time to address the issues that remain. The approval was conditioned upon receiving DOT approval for the proposed lot, which they did obtain but has since expired. Stating that it was also conditioned upon receiving Hunterdon County Dept. of Health approval soil testing for the proposed lot, they did not satisfy that condition. Stating it is a critical factor in this approval and will be the first thing they do.

Mr. Ted Bayer, Bayer Risse Engineering, explained that in order to comply with the West Amwell Township ordinance they need to establish the location of a primary and a reserve disposal area on the proposed lot and the remainder lands. Mr. Bayer stated the soils are rated by the HC Soil Conservation

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Publications Soil Survey as being moderate restrictive to sewage disposal line. Its tough soil in that it is subject to high water table, the soil service says the high water table is between one and one-half and three feet below the surface. The other condition is that there is shallow bedrock. Opining that in soils like these there is basically two types of testing to do, one is a pit bailing test, and the other is a basin flooding test. Stating, in soils like these, if the basin flooding test is done in the dry season, May through September, the water is likely not to drain. Whereas if the test is done sometime between January and April, when there is a high water table, an acceptable test should be obtained. Currently there is a test scheduled for the week of February 20 with the West Amwell Township soil test witness to perform the soil testing.

Mr. Smith stated they are asking for a year because if the soil testing are completed and pass they will need to re-do the DOT approvals, which will take time and also re-do the wetlands LOI that have also expired. Stating that both are time consuming and the reason for a one-year extension. Adding that they prefer not to move forward until the soil testing is done. The biggest hardship was the previous engineering firm going out of business and that they didn't address the final soils issue, not getting it done before the permit extension act expired.

Member Cronic questioned why no one was on top of the situation, Mr. Smith responded that Mr. Mostofizadeh came to them after the other firm failed to perform, stating that they set a plan, but to set the plan in motion they do need the extension.

Mr. Bayer stated that the other firm applied to the DEP for the treatments works approval for the alternate system, stating that wasn't denied until March 2015.

Mr. Mostofizadeh confirmed that he is still using Mr. Dale Winget as his attorney and he is aware of the appearance before us tonight.

Member Cronic stated he was hesitant to consider a one-year extension, asking if the necessary work could be completed in six months, Mr. Smith stated they were concerned about the time being so short, indicating that DEP can take up to four months by themselves, with no time limit on an LOI. Adding that a year would be better to get this done.

Board discussion continued acknowledging that they do have a hardship. However, due to the length of time that has passed there is concern expressed by members, the board would like to have an update after six months. Therefore the applicant will come back with an update and request additional time if necessary.

Motion was made by Cronic with a second by Koveloski to grant a six-month extension. Roll call: Cronic-aye, Ashton-aye, Hall-aye, Koveloski-aye, Fisher (alt #2)-aye, Fulper-aye. Motion Carried

Completeness Determination/Public Hearing: – John Thompson Block 29 Lot 18.01 – 315 Goat Hill Road – Accessory Dwelling (8:18PM)

Application, Checklist, Site Plan comprised of one sheet provided by Genon Rema LLC/property tax dept., Topography Plan comprised of one sheet were received and distributed.

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

Kara Kaczynski, attorney for the applicant, appeared on behalf of the applicant.

Ms. Kaczynski referred to the Site Plan showing the property located along the south easterly side of Goat Hill Road, adjacent to West Amwell and Hopewell Township. Providing an overview of the property, stating that the property consists of approx. 10.31 acres, it is a flag lot property, with a couple of right of ways, there is principal dwelling with four bedrooms, and an accessory dwelling structure with 2

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bedrooms. Both structures have been utilized for residential purposes by both prior owners of the property, since it was constructed in the 1960's. The property is located in the R-6 zone where accessory dwellings are permitted as a conditional use as outlined in section 109-160 of the code.

Ms. Kaczynski stated that the letter of denial issued by the zoning officer directed Mr. Thompson to come to the Zoning Board in connection with conditional use approval. Adding that during the application preparation other items were identified as a non-conformity to the property, stating that the property has only about 52ft of frontage whereas 300ft is required.

Discussion ensued as to which board the applicant should be before. Referring to the zoning officer's denial, Attorney Palilonis stated that if they meet all of the conditions, this board doesn't have jurisdiction, the only way would be if they needed a D-3 variance.

Ms. Kaczynski presented information showing that one of the conditions, specifically the front yard setback is not met, based upon a recorded document that was recorded in connection with a right of way for the NJ Power & Light.

Ms. Kaczynski stated that one of the conditions states that 150ft front yard setback is required. Adding that the accessory dwelling setbacks have to meet the setback requirements of the principal structure. In this instance it is 150ft setback, the setback shown at 130.2ft on the plan does not meet the 150ft requirement.

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Site Plan entered as Exhibit T-1.

CORRESPONDENCE:

The following items were distributed as correspondence:

From Clerk Olsen re: **Resolution 2017-17**, (closed session minutes and website updating),

12/21/16 Email from Planning Board Secretary Maria Andrews re: request from Mayor Zach Rich requesting the Zoning Board to now request **2 extra site plan sets for signature and distribution**, one for Jeff Ent, the Fire Chief and one for Phil Langon, the Fire Marshall. Secretary Hall advised Ms. Andrews that we implemented the process a few months ago.

November/December Planner

Zoning denial Block 3 Lot 16, 31 Lakeview Road, denied by Zoning Officer Rose for change of use and site plan review

Approval of Bill List 1/24/17:

Motion was made by Ashton with a second by Cronce for the approval of the Bill List contingent upon certification of funds. Motion carried on voice vote - all ayes.

DISCUSSION:

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Secretary Hall advised of an OPRA request she was having difficulty researching information for. Clerk Olsen requested she speak to Attorney Palilonis. The property is located at Block 10 Lot 9, 54 Mt. Airy Village Rd. The resolution and minutes refer to “lot impact” tenants, stating that a document would be prepared with a definition of same. The file contains no document pertaining to “low impact” definition.

Attorney Palilonis stated that if the document wasn’t in the file it never happened, the owner would be bound to comply with current zoning for prospective tenants.

OPEN TO PUBLIC:

The floor was opened to the public.

Hearing no additional comments/questions, the floor was closed. (8:13PM)

ADJOURNMENT:

All members voted in favor of adjournment at 8:13 PM

Respectfully submitted,

Ruth J. Hall