

WEST AMWELL TOWNSHIP
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
August 22, 2017

The West Amwell Township Zoning Board of Adjustment regular meeting was called to order at 7:29PM 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 (Vice Chair)-present, Joe Romano-present (arrived at 7:34), John Ashton-present, Frank Sabatino (alt#1)-present, George Fisher (alt#2)-present, Robert Fulper (Board Chair)-present

Absent: Brian Fitting, Ruth Hall, Kevin Koveloski

Professionals Present: Stewart Palilonis, Board Attorney

PRESENTATION OF MINUTES:

Regular Meeting Minutes – July 25, 2017 - Motion was made by Mr. Fisher (Alt#2) with a second by Mr. Ashton to accept the minutes as presented with one edit (Should read Mr. Romano’s email rather than Mr. Ashton’s under “Continued Discussions-Off Track Cost Shares”).

Roll call: Cronce-Abstain, Romano-aye, Ashton-aye, Sabatino (alt#1)-aye, Fisher (alt #2)-aye, Fulper-aye

RESOLUTION(S) OF APPROVAL:

Briesch Block 13 Lot 51

It was noted that this resolution is for setbacks only. As it is an appeal it is not necessary to notice neighboring property owners.

Mr. Ashton made a motion to approve this Resolution. Mr. Fisher seconded the motion. Roll call vote: Cronce-Abstain, Romano-aye, Ashton-aye, Sabatino (alt#1)-aye, Fisher (alt #2)-aye, Fulper-aye

APPLICATION(S):

Completeness/Public Hearing: – Huebner B 32 L 19 – Application for D Variance - (accessory dwelling) (7:44pm)

Application, Zoning Permit Application (undated), Zoning Permit Denial and letter from Zoning Official (dated February 3, 2016), series of four black and white photographs of the site on an 8 ½ x 11 sheet (undated), Google aerial and street view color pictures (undated), plan of survey, prepared by Christopher A. Melick, PLS (dated March 31, 2016) were received and distributed to the Board members at the July meeting. Letters to the Board were also provided to the Board Members and applicants from Board Engineer Decker (dated 7/21/17) and Board Planner Kyle (dated 7/25/17) previous to the meeting.

Ms. Huebner and Mr. King, property owners and Mr. Art Bernard, Licensed Planner, approached the Board and were sworn in by Attorney Palilonis.

Mr. King and Ms. Huebner stated they reside at the property at 30 Barry Road. Mr. Bernard stated his office is at 77 North Union Street.

Comments were exchanged about the Board voting requirements as this is application is for a D Variance. Five affirmative votes are needed, there are six members present. The applicant's Planner asked if testimony could be heard and then the applicant could decide if they would like the Board to vote or not tonight. If this application is carried Board members who are not present tonight can vote if they listen to the meeting recording.

Attorney Palilonis deemed the application complete. The Board Secretary verified that all checklist items were submitted.

Ms. Huebner explained that they purchased the home in a short sale in 2016; she thought the sale included a legal apartment. The apartment never received municipal approval. They came to the Board last year but did not have proof, they now have proof.

Planner Kyle's letter to the Board showed that there were numerous vehicles depicted in the driveway in the aerial picture. Ms. Huebner affirmed that the trucks have not been there since they purchased the property. Planner Kyle's letter reported that the previous owner had pigs. The property owner reported that there are not pigs on the property and the shed is gone.

Attorney Palilonis confirmed with the Board members that they were all present last year when the applicant came to the Board the first time.

Mr. Bernard went over his credentials; Chairman Fulper accepted him as a professional.

Mr. Bernard reviewed the site. He provided three handouts which were entered into the record as exhibits as follows:

Exhibit H1 – the definition of an accessory dwelling

Exhibit H2 – conditional use in RR6 zone

Exhibit H3 – Hunterdon County application for a septic system for B 13 L 51

Mr. Bernard stated that the applicant thought they were purchasing a legal apartment; the County septic system application indicates that there are two residences on the site. They were cited for an illegal apartment. The property is in the RR6 zone, which is a single family zone; an accessory dwelling is a conditional use in this zone.

Mr. Bernard read the definition of accessory dwelling. There are eight conditions for an accessory dwelling; this property complies with half of them. Condition A requires 6 acres; the lot is undersized (2.3

Page 3

acres). Condition D is not met as the dwelling is over the garage therefore it cannot meet the setback of the principle building. Condition E is not met as the garage is 32 feet from the side yard and does not meet the setback.

The applicant does not meet Condition H (regarding the septic system) but is willing to comply as a condition of approval. Attorney Palilonis noted that this Board cannot grant relief from that requirement as it is a health requirement.

Mr. Bernard said for a D3 Variance they do not have to prove that the property is suited for this use as it is a conditional use, the use is permitted if certain conditions are met. Mr. Bernard will show that the lot is appropriate for this use, although it does not meet these conditions, and that the site can accommodate any problems caused by this use. The septic tank is sized and approved by the County based on two residential units, therefore the apartment does not create a health hazard. The site is large enough to provide parking.

Exhibit H4 was entered into the record as follows:

Exhibit H4 – picture of garage on property showing parking is available

Mr. Bernard addressed Condition D stating that the apartment is over the garage and the apartment is permitted to be in the accessory building.

Mr. Bernard said in his view that there is no disturbance to the neighbor; the apartment is not near the principle dwelling or principal dwelling of the neighbor.

Exhibit H5 was entered into the record as follows:

Exhibit H5 – picture of property line between neighbor's property and applicant's property

Mr. Bernard noted that Exhibit 5 depicts a wooded area that screens the property.

Exhibits H6 and H7 were entered into the record as follows:

Exhibit H6 – picture of side of the garage

Exhibit H7 – picture of the side of the garage view of neighboring property

Mr. Bernard said Condition F refers to setbacks for five or more vehicles. The parking doesn't comply if it's from the principle dwelling setback but complies if it is from the garage. The applicant is agreeable to planting shrubs to protect neighbors from headlight glare.

Mr. Bernard addressed the last condition and stated that the applicant meets code.

Attorney Palilonis inquired about the age of the garage. Mr. Bernard said the garage was there when the property was purchased, it was a modified by the previous owners and approved as storage space. Attorney Palilonis confirmed with Mr. Bernard that the apartment is the second floor of the garage. Mr. King said the apartment will be brought up to code.

Attorney Palilonis summarized that there are three issues: lot size, meaning of the ordinance, and the setback for the accessory building.

Mr. Bernard is asking for relief from parking and believes the site is suitable for an apartment. The garage side yard setback is 32 feet; ten feet is required.

Mr. Bernard does not see a substantial detriment to the public good. He sees that it will have a positive impact to provide housing for a person who would like to live in the area. There will not be a health issue, any traffic impact is minimal. He does not believe the apartment will impact the quality of life for the

Page 4

adjoining property owners at all. He believes there is minimal effect on the zoning plan. The apartment is a permitted conditional use, some of those conditions are met. He finds no substantial detriment to the public good or zoning plan.

Mr. Bernard ended his testimony at this time.

Chairman Fulper said the parking needs to be addressed by the Board. The applicant has three cars and depicted where they are parked on the property map. It was discussed that the most cars there would probably be are five and there is a large area for parking. A comment was made about parking not being an issue. The parking is 32 feet from the property line; relief from this can be granted. Mr. Bernard commented that the lot is large enough to accommodate parking.

Chairman Fulper said the maximum coverage allowed is 12%; this lot has 10%.

Comments were exchanged about the lot size being smaller than 6 acres. It is an older, undersized lot. The neighboring properties are also undersized.

Attorney Palilonis asked Mr. Bernard if he could testify to the lot sizes on either side of the property. Mr. Bernard went over the neighboring lot sizes.

Mr. Bernard asked to consult with his clients.

The meeting adjourned for recess from 8:43 to 8:48.

Ms. Huebner requested the Board vote tonight on her application.

Mr. Fisher made a motion to grant relief for the following:

The side setback of the accessory building for 32 feet verses 60 feet required, overall lot size of 2.309 acres verses 6 acres required, parking setback of 32 feet instead of 60 feet required, and approval of construction codes to the apartment. Relief is contingent on health and construction codes being met. Vice Chair Cronce seconded the motion.

Roll call vote: Cronce-Aye, Romano-aye, Ashton-aye, Sabatino (alt#1)-aye, Fisher (alt #2)-aye, Fulper-aye

Attorney Palilonis said the Board would adopt a resolution at the September meeting. Once the resolution is adopted a notice is published. Any member of the public has 45 days from the date of the notification to appeal the resolution.

CORRESPONDENCE:

8/16/17 E-mail from New Jersey Planning Officials re: Back to School – NJPO has a mandatory class near you

Vice Chair Cronce commented that all Board members have taken the class and asked the Board Secretary to check to insure the records are up to date.

Approval of Bill List 8/22/17:

Chairman Fulper presented the bill list with a total of \$1045.00 for bills to be paid.

The Bill List was approved for payment via voice vote - all ayes.

DISCUSSION:

Chairman Fulper reported that he called Ruth Hall and updated the Board.

OPEN TO PUBLIC:

The floor was opened to the public.

Hearing no additional comments/questions, the floor was closed. (8:59 PM)

ADJOURNMENT:

Mr. Ashton made a motion, seconded by Mr. Fisher, to adjourn the meeting at 8:59pm. All were in favor, the meeting was adjourned.

Respectfully submitted,

Christine A. Rosikiewicz