

WEST AMWELL TOWNSHIP
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
September 26, 2017

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 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, Brian Fitting - present, John Ashton-present, Frank Sabatino (alt#1)-present, Robert Fulper (Chairman)-present

Absent: Ruth Hall, Kevin Koveloski, Joe Romano, George Fisher (alt#2)

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

PRESENTATION OF MINUTES:

Regular Meeting Minutes – August 27, 2017 - Motion was made by Mr. Cronce with a second by Mr. Ashton to accept the minutes as presented with one edit: On Page 3, 2nd sentence replace “of” with “from”.

Roll call: Cronce-Aye, Fitting- abstain, Ashton-aye, Sabatino (alt#1)-aye, Fulper-aye

RESOLUTION(S) OF APPROVAL:

Huebner Block 32 Lot 19

Mr. Ashton made a motion to approve this Resolution. Mr. Cronce seconded the motion. Roll call vote: Cronce-aye, Fitting – abstain, Ashton-aye, Sabatino (alt#1)-aye, Fulper-aye

APPLICATION(S):

Completeness: Columbia Fire Company, No. 4 B 39 L 4.01 – Application for D Variance - (Volunteer Fire House) (7:45pm)

The following were received and distributed to the Board Members via mail prior to the meeting:

ZBA Application for a Variance/Appeal/Interpretation, Zoning Permit Application (dated 8/3/17), Zoning Permit Denial letter from Zoning Official (dated 8/7/17), USGS Quad Map Exhibit of Project Location (topical map) by T and M Associates (dated 8/30/17), Aerial Location Map from Google Earth

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(dated 2017), two color photographs of the site on an 8 ½ x 11 sheet (undated), Plan titled “conceptual Site Plan” by T and M Associates (dated 4/21/17)

A letter to the Board was also provided to the Board Members and applicants prior to the meeting from Board Engineer Decker (dated 9/19/17) re: Completeness Review

Mr. Ronald Tillet, Jr., Vice President of Columbia Fire Company, and Mr. Erik Fritz, Attorney for Columbia Fire Company, approached the Board and introduced themselves.

Engineer Decker affirmed that he reviewed the plans for completeness and there was enough information for the use variance application. If the use variance is approved a site plan will be necessary noting that this application is bifurcated. Attorney Palilonis said the public hearing will only be on the use variance and reiterated that if approved more information will be needed for the site plan. The site plan will also need to be reviewed for completeness and submitted ten days before the hearing date. Chairman Fulper explained that if issues come up with the use variance hearing this allows for the site plan to be adjusted before being heard.

Engineer Decker explained to the applicant that the information regarding submittal for the site plan is all on the Township’s website. Comments were exchanged regarding the road the property is on and Chairman Fulper said the Board is required by law to look at turning radius, access and egress for the apparatus on the road.

Mr. Fitting made a motion to deem this application for Columbia Fire Company, No. 4 complete for purposes of the use variance. Mr. Ashton seconded the motion. Roll call vote: Cronce-aye, Fitting – aye, Ashton-aye, Sabatino (alt#1)-aye, Fulper-aye (7:52)

Completeness/Public Hearing: Sarvazyan Block 21 Lot 49 – Application for C (2) Variance and Interpretation (accessory building) (7:53)

The following were provided to the Board and professionals via mail prior to the meeting:

Checklist (dated 7/3/17), ZBA Application for a variance/appeal/interpretation (dated 7/25/17), site photographs prepared by Princeton Junction Engineering, P.C. (undated), Zoning Permit Denial Letter from Zoning Officer Rose (dated 3/16/16), zoning application (dated 3/15/17), and Preliminary and Final Site Plan prepared by Kevin M. Brakel, PE of Princeton Junction Engineering, PC (dated 8/9/17) consisting of four sheets, Site Plan and architectural drawings, prepared by John W. Holz, Architect (dated 8/7/17) consisting of 6 sheets

Engineer Decker provided a Completeness Review which was distributed to the Board, applicant, and the applicant’s engineer via e-mail dated (9/19/17). Planner Kyle provided a Planner’s Review via e-mail to the Board, applicant and applicant’s professionals (dated 9/22/17).

Engineer Decker recommended the Board deem this application complete for an interpretation and “c” variances for the height of the proposed accessory structure.

Dave Roskos approached the Board and introduced himself as the applicant’s attorney. He provided biographical information on the applicant, Mr. Sarvazyan, including that Mr. Sarvazyan is a sculptor by hobby. He stores his sculptures on his property in two greenhouses but would like to build a building to store them in. His property is 17 acres. If granted this variance he will remove a trailer from his property and another accessory building. He will not be bringing any public on his property to view the sculptures. Attorney Roskos compared storing the sculptures in the proposed building to a car collector storing antique cars in a garage on their property.

Attorney Palilonis said the applicant noticed for interpretation. Attorney Roskos said a variance is needed as the building is larger than permitted by the Township.

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Attorney Palilonis said the notices are in order and were given based on this application being an accessory structure.

Attorney Roskos explained that Mr. Sarvazyan is not a commercial sculpture or artist. He does not sell his art.

The following exhibits were entered into record:

Exhibit S-1: Biography of Mr. Sarvazyan from the Rutgers website

Exhibit S-2: Letters Mr. Sarvazyan has received

Attorney Roskos said the building will not have bathrooms or be open to the public. It would be used to store the wood sculptures which are currently being affected by the weather.

Exhibit S-3 was entered into the record as follows:

Exhibit S-3: Bound book of photos of Mr. Sarvazyan's art which will be stored in the building

Board members commented that the art is already being stored on the property.

Attorney Roskos said if the applicant wanted to build a 2900 square foot addition on his home that would be permitted without going to the Board and referenced case law regarding antique cars, an antenna for amateur radio, and a heliport as hobbies. Other buildings will be removed from the site.

Comments were exchanged between Board members regarding the interpretation of the ordinance as this building being an accessory use.

Mr. Fitting made a motion that the Board interpret the building as an accessory use to the primary structure. Mr. Ashton seconded the motion. (8:18pm)

Chairman Fulper said this motion does not take into account any of the "c" variances applied for.

Engineer Decker said the motion is strictly saying that this building is an accessory use. There was some further discussion on Planner Kyle's report. Engineer Decker said the only other concern was that the use of the building may change. Engineer Decker said if this building is a permitted accessory use then a site plan is not required, only zoning permits would be needed.

Attorney Palilonis said the Zoning Officer denied the application for the reasons as follows: permitted accessory use (referring to Schedule 3 in the appendix of the zoning ordinance) and establishment of stream corridor.

Attorney Roskos said the building will be moved back so they are not seeking a variance for the stream corridor. Attorney Palilonis noted the DEP permit application was withdrawn. Engineer Decker said the building will be moved to comply with the stream corridor.

Engineer Decker said the only permitted use that "comes close" is art studios and read the definition. Attorney Roskos said there will be no sales and no art instruction.

Engineer Decker said the zoning would be revisited if the use of the building should change.

Attorney Roskos cited Cox and believes this is an accessory use.

Attorney Palilinos reminded the Board that the motion on the floor is for the interpretation that the building is an accessory structure.

Roll call vote: Cronic-aye, Fitting – aye, Ashton-aye, Sabatino (alt#1)-aye, Fulper-aye (8:29)

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Attorney Palilonis swore in Gadalia Vinokurov, designer of the building and Frank Falcone, of Princeton Junction Engineering, PC, the applicant's engineer. Mr. Vinokurov and Engineer Falcone went over their credentials. Chairman Fulper accepted them as witnesses.

Engineer Decker said he reviewed the application and more than adequate documentation has been provided for the Board to review on and act with regard to the requested "C" variances and recommended the Board deem the application complete.

Mr. Cronce made a motion to deem the application complete. Mr. Fitting seconded the motion. (8:32)
Roll call vote: Cronce-aye, Fitting – aye, Ashton-aye, Sabatino (alt#1)-aye, Fulper-aye

Engineer Falcone went over a map of the property. It is a 17 acre predominantly wooded flag lot. There is a pool, sheds, two ponds, outbuilding where the art is made, 2900 feet of driveway, and stone walking paths.

The following exhibit was entered into the record:

Exhibit S-4: Overall Site Plan Exhibit to scale

Engineer Falcone stated that the structure will be built in the lawn area, northeast of a drainage feature. The driveway will be slightly realigned. Prior drawings showed a large terrace around the structure but that will not be built. NJ DEP has granted permit by rule meaning the area is fit to develop and there is no real detriment to the environment. There are some subtle art structures on site made with tree branches.

Attorney Roskos clarified that there was reference to [the proposed building being] 4579 square feet but the plans are for 2916 square feet as previously planned decks and terraces have been eliminated. Engineer Falcone said the trailer and two green houses on the property will be eliminated. The building where the sculptures are made will remain.

Exhibit S-5 was entered into record as follows:

Exhibit S-5: pictures of proposed structure, site plan, and floor plan

Mr. Vinokurov described the drawings to the Board. The building is an octagon on top of an octagon, like an Armenian Church, but empty to show off the sculptures. There is a feeling of open space. The sculptures are currently deteriorating in the green houses as they are not temperature controlled. Mr. Vinokurov went over a drawing of the proposed site elevation and indicated that the elevation is identical on all sides. Light will come in from the small windows on top.

Attorney Palilonis asked Mr. Vinokurov what his relationship is with John Holz. Mr. Vinokurov said Mr. Holz is an independent contractor. Mr. Vinokurov has been a designer for 37 years and has an agreement with Mr. Holz. Mr. Vinokurov is not a licensed architect.

Chairman Fulper inquired about the height of the building. Mr. Vinokurov said is to have the feel of an Armenian church. Attorney Roskos said there is no offsite impact from the height. Further explanation was provided on the inside of the building. Responding to a question from the Board Mr. Vinokurov said the building will be clean and strictly for storage. The columns are to support the roof. The niches are created to display the 79 pieces of sculpture. There are small rooms for storage and a mechanical room. There will be electrical for lights and HVAC for climate and humidity control but no plumbing. Responding to a question from the Board Mr. Vinokurov said there will be no outside light or publicly lit space. There will be lights at two exits for safety. There will be no sprinklers. Responding to a question from the Board Mr. Vinokurov said there will be natural stone on the walls and 3D clay stones on the roof.

Attorney Roskos asked Engineer Falcone if there will be any impact on offsite and surrounding properties. Engineer Falcone said topographically the site slopes from the south. There is one neighbor

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whose property is adjacent on Lot 21; this property is 330 feet from the proposed structure. There are commercial properties to the northwest and northeast. The area where the building would go is the only clear area and is topographically lower. Engineer Falcone further went over the map and said the structure will not be seen, since it is 627 feet from the road there is no visual impact. The structure will be in front of the house as it is the best location for it but there is no real impact of it being in this location. The land is uniquely shaped and the house is higher up. The building will be accessed via the driveway, there is no parking associated with it. There are gravel paths in the woods on the property.

Variances are needed as the building will be 35 feet which is over the maximum height of 15 feet allowed. The maximum size allowed is 1200, this structure will be 2960 square feet.

Engineer Falcone continued that the property is 17 acres, there is a 174 foot side set back. The property is wooded so the structure won't be seen. Putting an addition on the house would be permitted. There will be no impact to the neighbors for site and height of the structure. He believes the Board can approve this variance without substantial impact to the surrounding properties, zoning plan, or zoning ordinance.

Engineer Falcone said this advances the purpose of the Municipal Land Use Law (MLUL) as it provides sufficient space in an appropriate location for a variety of uses and to promote a desirable visual environment. He noted that this structure preserves the property as it could probably be subdivided.

Attorney Roskos said removing three of the current structures (trailer with porch and two greenhouses) if this structure is approved is a major visible improvement to the property.

Attorney Roskos provided the Board with a packet of information regarding the zoning ordinance in Lake Tahoe, CA and referenced the lack of restriction on the size of accessory buildings in Lake Tahoe if the property is 4.6 acres or larger.

It was noted by the applicant's professionals that trees will not be taken down and the home sits higher than the proposed structure. Other sites were considered for this structure and it was explained why this site was chosen.

The plan will be amended to show the specific dimensions from the side and front of the property, a condition of approval would be to submit a revised plan to the Board Engineer for his approval before the building permit is issued. Attorney Palilonis said the Resolution will state where the building will be located and that the plan will be revised to show the new location as the building will be shifted to the east.

Comments were exchanged between the Board and Engineer Falcone regarding the reason for the height of the structure. Engineer Falcone expressed that it is aesthetically pleasing and there is no detriment, amongst other reasons.

The Board took a recess at 9:19PM.

The Board returned to the meeting room and the meeting resumed at 9:24PM.

Engineer Falcone said a wetlands expert has looked at the site and the proposed building area is absent of wetlands, a wetlands permit would be needed to build anywhere else on the property.

Engineer Decker said the property is within the Delaware and Raritan Canal Commission review zone. At minimum a no-interest letter should be required. According to their requirements any impervious area constructed after 1980 is considered new.

There was a discussion on the discrepancy on the site plan regarding the size of the building, the site plan calls for an art storage facility of 2990 square feet. During testimony 2960 square feet was indicated, Mr. Vinokurov explained that the lower number did not include a storage area.

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Chairman Fulper said the height of the building (20 feet over allowed height), the size of the building (1790 square feet over allowed size of 1200), and the location of the structure in the front yard will require variances.

Board member comments included that the building would not be used by the public and there will be no parking for the building. It will be noted in the resolution that the building will be used for art storage.

Mr. Fitting made a motion to grant the three variances for height, area of the building, and the building being in the front yard. The following are conditions of approval: Delaware and Raritan Canal Commission approval or waiver and submission of amended plat showing the exact location of the building. Mr. Cronic seconded the motion.

Roll call vote: Cronic-aye, Fitting-aye, Ashton-aye, Sabatino (alt#1)-aye, Fulper-aye (9:38PM)

Chairman Fulper said the three structures on the property will be removed. Attorney Roskos said the applicant will remove the structures once the new building is up. Attorney Palilonis noted for the record that the applicant's attorney has no objection that the removal of the three existing structures being a condition of approval. The structures should be removed within 180 days of the CO of the new structure.

CORRESPONDENCE:

Secretary Rosikiewicz went over the correspondence with the Board.

DISCUSSION:

Engineer Decker asked to speak about the Board's policy for processing applications. His office reviews the application for completeness, Planner Kyle does not review the application until it is deemed complete. Since applications can be submitted ten days before the meeting it can be difficult to get all the necessary reports completed and distributed in time before the meeting. The Board also can't move forward nor can technical reviews be completed on an application that the Board has not deemed complete. It was determined that if the application is for a use variance, a sub-division, or a site plan is associated with the application then the application should be heard in one meeting for completeness and a second meeting for the public hearing.

Engineer Decker said there is an obligation to act on completeness within 45 days or the application is automatically deemed complete. Once deemed complete the clock starts on the review. Other options for determining completeness were briefly discussed including utilizing a sub-committee.

Approval of Bill List 9/26/17:

Chairman Fulper presented the updated bill list with a total of \$962.11 for bills to be paid.

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

OPEN TO PUBLIC:

The floor was opened to the public.

Hearing no additional comments/questions, the floor was closed. (9:57PM)

ADJOURNMENT:

Mr. Cronic made a motion, seconded by Mr. Ashton, to adjourn the meeting at 9:57pm. All were in favor, the meeting was adjourned.

Respectfully submitted,

Christine A. Rosikiewicz