

WEST AMWELL TOWNSHIP
ZONING BOARD OF ADJUSTMENT – REGULAR MEETING
April 23, 2019 Minutes – 7:30 PM

The regular meeting of the West Amwell Township Zoning Board of Adjustment was called to order at 7:30 PM by Chairman Fulper.

The following statement of compliance with the Open Public Meetings Act as listed on the meeting agenda was read into the record by Secretary Andrews: This meeting was called pursuant to the provisions of the Open Public Meetings Act. This meeting was included in a list of meetings transmitted to the Hunterdon County Democrat and the Times of Trenton on February 28, 2019. Notice has been posted on the bulletin board at Town Hall on April 18, 2019 and has remained continuously posted as to required notices under the Statute. A copy of this notice is available to the public and is on file in the Office of the Zoning Board of Adjustment and Township Clerk.

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

Attendance – Roll Call

Present: John Ashton
John Cronic
George Fisher
Rob Fulper
Joe Romano
Michael Rassweiler – Alt. #1
Mark Bowles – Alt. #2
Attorney Palilonis
Engineer Decker
Planner Kyle

Excused: Brian Fitting
Marvin Hartpence

Presentation of Minutes – 3/26/19

A motion by Mr. Ashton, seconded by Mr. Romano to approve the Board's 3/26/19 minutes with no revisions noted was approved by roll call vote with Mr. Cronic and Mr. Fisher abstaining.

Roll Call Vote: Mr. Romano: Yes, Mr. Ashton: Yes, Mr. Rassweiler: Yes, Mr. Bowles: Yes, Mr. Fulper: Yes

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Resolutions of Approval

It was noted for the record that no resolutions were listed on the agenda for approval.

Applications: Completeness/Public Hearing

Affordable Self Storage, Inc. – 1337 Route 179 – Block 5 Lot 8: Application for Variance Approval for Stream Corridor and Steep Slope Disturbance for Expansion of the Facility

Present for the application was Attorney Rich Mongelli, Engineer Rob Monahan, Planner James Miller and property owner Charles Tutela.

It was noted for the record that the application had been deemed complete at the Board's 10/24/17 meeting. A public hearing took place on 11/28/17 where variance approval was granted by roll call vote for front yard setback (40.6 ft. where 100 ft. is required) and for (FAR) floor area ratio (to allow an increase from 15% to 21.1%). It was noted that Attorney Palilonis did not draft a resolution for these approvals because he was recommending the application be handled as a continuance from the 11/28/17 meeting. He suggested the applicant's professionals clarify what was previously approved and give an overview of what is being proposed for the benefit of new board member Mark Bowles. Attorney Palilonis indicated Mr. Bowles was eligible to vote on the application this evening because the testimony would be regarding two new variance requests.

Attorney Mongelli clarified that even though the steep slopes and stream encroachment were discussed at the 11/28/17 meeting, no vote was taken on the requested variances because the Board suggested the property owner seek NJDEP approval first.

With regard to this evening's application, Engineer Decker recommended the application could be deemed complete. A motion by Mr. Cronic, seconded by Mr. Fisher to deem the application complete was unanimously approved by roll call vote.

Roll Call Vote: Mr. Cronic: Yes, Mr. Romano: Yes, Mr. Ashton: Yes, Mr. Fisher: Yes, Mr. Rassweiler: Yes, Mr. Bowles: Yes, Mr. Fulper: Yes

It was noted for the record that Attorney Palilonis swore in all parties.

Engineer Monahan and Planner Miller provided their credentials to the Board and were accepted as experts to provide testimony on this application.

Engineer Monahan presented **Exhibit A-5:** A site plan dated 3/25/19 which was submitted with the application depicting the existing conditions on the site. It was noted the property is an 8.96 acre lot developed with 9 storage buildings, an office, a small shed, 10 parking spaces, on-site well and septic and a stormwater detention basin on the rear of the site with drainage on the eastern side of the property.

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Engineer Monahan explained the Category 1 stream on the property is a tributary to the Alexauken Creek which requires a 300 ft. riparian buffer. He noted a variance is requested because the entire proposed project is located in the buffer area. NJDEP has granted the project a “Permit by Rule” because the proposed impervious coverage is less than 0.25 acres and the proposed activities are within the stream’s actively disturbed riparian zone.

Additionally, he clarified the proposed steep slope disturbance noting Ordinance Section 109-142:D sets forth the following requirements:

1. Slopes of 15% but less than 20%: A maximum of 30% of the total area in this slope category may be disturbed for development purposes
2. Slopes of 20% but less than 25%: A maximum of 20% of the total area in this slope category may be disturbed for development purposes
3. Slopes of 25% or more: Disturbance of slopes in this category shall be prohibited, except where an applicant can demonstrate that such disturbance is essential in order to achieve access to a property or in order to establish any reasonable use of the property.

Engineer Monahan explained they are proposing the following levels of disturbance in the steep slope areas:

1. In the 15% - 20% category = 1410 sq. ft. or 9%
2. In the 25% plus category = 4797 sq. ft. or 10 %

He clarified that their application complies with the 15% - 20% category but noted the Ordinance does not allow any disturbance of slopes greater than 25% and therefore they require a variance from this deviation.

Mr. Fisher asked for clarification that all of the 25% plus steep slopes were man-made during the construction of the facility. Engineer Monahan confirmed this is the case and remarked the proposed area of disturbance is actually a grass hill that does not provide any habitat for wildlife and will not have any impact on construction or emergency vehicles needing to access the site.

Engineer Monahan stated the Affordable Self Storage site is within the D&R Canal Commission purview and commented that they have been working with them on the design for a small on-site recharge basin. Additionally, the two driveway areas will have stormwater control mechanisms installed per D&R’s regulation requirements.

Engineer Monahan explained that from the roadway the proposed new building will appear to be one story because the first floor will be constructed below grade.

Planner James Miller came forward and noted that since he had provided testimony at the Board’s 11/28/17 meeting he will just be establishing the required proofs for the requested “C” variances this evening.

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He commented that the application advances the purposes of the Municipal Land Use Law (MLUL). He stated the steep slopes are man-made and disturbing them to accommodate a new building does not negatively impact the environment or create any additional runoff.

With regard to the stream corridor, he noted NJDEP has determined their proposed expansion to be of minor impact and granted them a “Permit by Rule.”

Planner Miller highlighted the following points supporting the proposed expansion:

1. The use is supported by the community
2. The benefits outweigh any detriments
3. There is no detriment to the public welfare
4. There is no detriment to the zone plan as the use is permitted in the district
5. There is no negative impact to the surrounding neighborhood

Board Planner Kyle commented that he believes the steep slope disturbance is of minimal significance because they were man-made when the site was constructed.

Board Engineer Decker commented that he believes it is reasonable to conclude that the stream corridor will not be adversely impacted if the NJDEP has granted a “Permit by Rule.”

Attorney Mongelli summarized the requested variance relief noting they are seeking relief from the Township’s stream corridor ordinance which requires a 300 ft. buffer and seeking permission to disturb steep slopes greater than 25%.

Planner Kyle suggested Attorney Palilonis draft a separate resolution for the Board’s 2017 variance approval. Attorney Mongelli agreed noting two resolutions are appropriate because there is a new board member who did not hear the original testimony or vote on the front yard setback or FAR variances.

A motion by Mr. Fisher, seconded by Mr. Ashton to grant the requested variances and allow the proposed expansion within the 300 ft. riparian buffer of the stream corridor and allow disturbance of steep slopes greater than 25% conditioned upon the DRCC approval and NJDEP Permit by Rule requirements was unanimously approved by roll call vote.

Roll Call Vote: Mr. Cronce: Yes, Mr. Romano: Yes, Mr. Ashton: Yes, Mr. Fisher: Yes, Mr. Rassweiler: Yes, Mr. Bowles: Yes, Mr. Fulper: Yes

Attorney Mongelli thanked the Board and stated they will be returning to seek site plan approval within the upcoming months.

Approval of Bill List

It was noted for the record that there were no bills received for approval.

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Open to the Public

It was noted for the record that no members of the public were present at the meeting at this time.

Attorney Palilonis commented that there is no requirement in the Township Ordinances for site plan approval and stated that he wanted the record to reflect Affordable Self Storage has indicated they will seek the approval. He indicated during the Brookmill litigation it was discovered that there is a “process” for seeking site plan approval, but no “requirement” in the ordinances.

Adjournment

A motion by Mr. Cronic, seconded by Mr. Ashton to adjourn the meeting was unanimously approved by voice vote.

The meeting adjourned at 8:38 PM.

Maria Andrews, Zoning Board Secretary