

**WEST AMWELL TOWNSHIP**  
**ZONING BOARD OF ADJUSTMENT – REGULAR MEETING**  
**November 26, 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 Chairman Fulper: 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 November 20, 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  
Brian Fitting  
Rob Fulper  
Marvin Hartpence  
Joe Romano  
Michael Rassweiler – Alt. #1  
Mark Bowles – Alt. #2  
Attorney Tara St. Angelo – *(Covering for Attorney Stewart Palilonis)*  
Planner Kendra Lelie – *(Covering for Planner Jim Kyle)*

**Excused:** No one

**Presentation of Minutes – 10/22/19**

A motion by John Cronic, seconded by George Fisher to approve the Board's 10/22/19 minutes with no revisions noted was approved by roll call vote with Mr. Fitting abstaining.

**Roll Call Vote:** John Cronic: Yes, Joe Romano: Yes, John Ashton: Yes, George Fisher: Yes, Marvin Hartpence: Yes, Michael Rassweiler: Yes, Mark Bowles: Yes, Rob Fulper: Yes

**Resolutions of Approval**

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

**Applications: Completeness/Public Hearing**

**Joseph Wright – Block 13 Lot 24 – 1222 Route 179: Appeal of Zoning Official's Decision Regarding Permitted Activities on the Site**

It was noted for the record that Mr. Cronic recused himself from this matter and left the meeting at this time.

Present for the application was property owner Joseph Wright and his Attorney Steven Gruenberg.

Attorney St. Angelo swore in all parties.

Attorney Gruenberg came forward and explained his client is appealing the Zoning Officer's 8/20/19 Notice of Violation alleging an expansion of use. He clarified that they are prepared to prove there has been no expansion of use, noting used car sales and automotive repairs have always taken place on the property since the 1950's. He stated the activities predate the Township's ordinances.

The following exhibits were presented:

**Exhibit A-1:** The Zoning Officer's Notice of Violation dated 8/20/19 and a handwritten note from the Zoning Officer dated 4/30/19 which are the basis for the appeal application.

**Exhibit A-2:** Pages from the book, "Wandering West Amwell" written by Betty Jane Hunt. Attorney Gruenberg referenced Chapter 51 and read the following paragraph into the record, "The oldest business still in existence is Wright's Garage on Route 179. Joseph Wright was born in Philadelphia but his dad wanted to get the family out of the city so they bought a farm (located off Mt. Airy-Harbourton Road behind the Hunt Farm). The family had an orchard and took fruit into the city to sell. Joe wanted to do mechanical repairs. He built his garage block by block in 1933. Theresa, (his widow) says he went to Woolworth's in Trenton and purchased one hammer, one screwdriver and one pair of pliers to start in business. Joe did auto repairs, had parts and pumped gas. Jay (Joe's son who now owns and operates the garage) remembers the gas station as a gathering place for the old-timers such as Jack Hunt, Alfred Runkle and Harold (Lambie) Holcombe...in the 1950's Joe expanded by having used cars for sale. They haven't pumped gas for years and Jay has expanded into RV repairs and parts. He also has the ability to locate hard to find parts for cars, trucks, RV's, etc. and specializes in custom car building..."

**Exhibit A-3:** A "Day Book" of receipts depicting the history of car repairs from 1957.

Attorney Gruenberg explained in 2017 an application was made for zoning permit approval for a 10' x 12' shed to be used as an office for one of the used car dealers. He noted the motor vehicle sales laws require business dealers to have an office. Attorney Gruenberg indicated the Zoning Officer denied the permit and the shed has since been removed from the site along with a tent that another dealer had erected on the property without permission.

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Attorney Gruenberg clarified that since the 1950's there have been 4 used car dealers working out of the property and there currently are still 4 dealers on the site. He suggested the Zoning Officer now rescind his Notice of Violation because there is no expansion of use since the shed and tent structures have subsequently been removed.

Planner Lelie asked when the shed and tent were removed from the property. Mr. Wright indicated some time during the month of September 2019.

Mr. Fitting confirmed that if the expansion is based on the shed and tent, and if the structures have been removed then the violation has been addressed.

Planner Lelie explained according to Section 109-92 referenced by the Zoning Officer, the activities occurring on the property are pre-existing, non-conforming grandfathered uses because they predate zoning. She clarified that the shed and tent would have been considered an expansion but now that they have been removed, the expansion of the site no longer exists.

Attorney St. Angelo confirmed that the car repair use occurring on the property has never ceased. Mr. Wright indicated that it has not. He said he has receipts from car repairs being done since 1957 (Exhibit A-3).

Mr. Fisher commented that at the time the zoning ordinances were established the use of the property may have been different than what is currently taking place.

Mr. Romano expressed some confusion over exactly what the Zoning Officer meant by the word expansion. Attorney St. Angelo commented that West Amwell does not require business registrations and the used car dealer's licenses which the State requires, only refer to "sales" so she believes the Zoning Officer never saw any paper work regarding the automotive repairs.

Attorney Gruenberg presented the following 2 witnesses:

Erik Zimmerman who stated he has lived across the street from the subject site for 29 years and confirmed that used car sales and repairs have always been going on there. He also noted he took no issue with the businesses.

David Stokes stated he has been a resident in the area for 27 years and has always known the property to sell used cars and do automotive repairs. He also indicated he has no issue with the businesses.

Attorney Gruenberg said he believes the appropriate process is for the Board to uphold Mr. Wright's appeal because the Zoning Officer has not rescinded his Notice of Violation. He commented his client is a long time resident and the longest running business owner in West Amwell who has always tried to do the right thing. He stated Mr. Wright should be allowed to continue to operate his used car sales and repairs based on the testimony and exhibits provided to the Board.

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Attorney St. Angelo recommended the Board address both issues: (1) The existing structures and (2) The uses. She stated she will draft a resolution that clarifies and recognizes the “pre-existing use of used car sales and repairs” and noting that due to the removal of the shed and tent, circumstances on the property have changed since the Zoning Officer issued his Notice of Violation.

Mr. Wright confirmed he has the main building/garage structure plus two other small dealer offices on the site.

A motion by John Ashton, seconded by Brian Fitting granting the appeal on the basis that the offending structures (shed and tent) have been removed and acknowledging that there currently is no expansion of use, and acknowledging that there is a main building/garage structure and 2 small dealer offices on the property, all for the use of used car sales and repairs and recognizing that they are pre-existing, non-conforming uses was unanimously approved by roll call vote.

**Roll Call Vote:** Brian Fitting: Yes, Joe Romano: Yes, John Ashton: Yes, George Fisher: Yes, Marvin Hartpence: Yes, Michael Rassweiler: Yes, Rob Fulper: Yes

Attorney St. Angelo asked that the record reflect the resolution will be memorialized at the Board’s 1/28/20 meeting because there is no December meeting due to the Christmas holiday. Attorney Gruenberg acknowledged the tentative January approval date.

### **Approval of Bill List**

A motion by John Ashton, seconded by George Fisher to approve the vouchers for payment as listed on the 11/26/19 bill list was unanimously approved by voice vote.

### **Open to the Public**

Mr. Fisher commented that it would have been helpful if the Zoning Officer had attended tonight’s meeting in order to clarify some of the issues. Attorney St. Angelo noted the Board can always request he be at the meeting but explained he is not obligated to do so. Mr. Fitting suggested if he cannot attend then perhaps he could draft a memo of explanation when the Board has to address an appeal application.

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

### **Adjournment**

A motion by George Fisher, seconded by John Ashton to adjourn the meeting was unanimously approved by voice vote.

The meeting adjourned at 8:30 PM.

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Maria Andrews, Zoning Board Secretary