

**TOWNSHIP OF WALL
ZONING BOARD OF ADJUSTMENT
MINUTES OF THE REGULAR MEETING
HELD IN THE MUNICIPAL MEETING ROOM
JANUARY 20, 2010**

The Regular Meeting of the Wall Township Board of Adjustment was called to order by Chairwoman DeSarno at 7:30 P.M. Members present were Chairwoman Mary DeSarno, Vice Chairwoman Wilma Morrissey, Ray Slocum, Kevin Orender, Robert Morris, Nance-ellen Draper, first alternate Mary L. Burne, second alternate Mark Margadonna, Attorney Cramer, Planning Secretary Roberta Lang, Recording Secretary Betty Schinestuhl, Engineer Gerken and Reporter Arnone. Mr. Gray was not in attendance.

SALUTE TO THE FLAG

Attorney Cramer announced that all requirements under the Open Public Meetings Act had been complied with for this meeting and read the purposes of the Board of Adjustment.

Chairwoman DeSarno stated two applications will not be heard this evening. The Sarr application will be carried to February 17, 2010. No re-noticing is required. The Giordano application will be carried to February 3, 2010. No re-noticing is required.

NEW APPLICATIONS

#BOA28-2009 – Date application complete: October 15, 2009

APPLICANT: RONALD W. SAGE

PROPERTY: 1804 Murray Drive, Block 804.04, Lot 47, R-60 zone

RELIEF REQUESTED: Bulk

Attorney Cramer reviewed the file and stated the Board had jurisdiction to proceed.

Sworn by Reporter Arnone:

Ronald W. Sage
Glenn Gerken
Cheryl Bergailo
Tom Peterson

Entered into evidence:

A-1 Jurisdictional Items
A-2 Drainage plan prepared by R.C. Associates dated December 2009
A-3 Letter from Mr. Tom Peterson dated December 23, 2009
A-4 JCP&L plan review dated November 9, 2009

BOA-1 Engineering plan review prepared by Glenn Gerken dated November 6, 2009
BOA-2 Planning plan review prepared by John Hoffmann dated December 16, 2009
BOA-3 Engineering plan review prepared by Glenn Gerken dated January 15, 2010
BOA-4 Planning plan review prepared by John Hoffmann dated January 19, 2010

Mr. Sage explained he has a shed in the back that is attached to the house. It is part of the house. He would like to convert his two car garage to a three car garage. He has two little children ages 1 and 8. He said there is an existing deck and he just wants to put a cover over the deck. This will enhance the appearance of the house.

Mr. Slocum asked if the stoop in front is going to have a roof over it or be open. Mr. Peterson said it is a covered stoop. It is a two story covered stoop. We are looking to take away the two story and make it one and add a covered porch area. It will be just covered not enclosed. There will be no screens or windows.

Mrs. Morrissey asked if the construction will match the rest of the house. Mr. Peterson said yes. They wanted to up-grade the house. It has an out-dated look. What we are looking to do is replace the siding and covered porch in front. It will be much more in keeping with the newer homes. It will be very much in keeping with what is on the block.

Mrs. Morrissey asked about the roof re-charge. Mr. Peterson said Mr. Gerken asked about that. The property is conforming. It is 60,000 s.f.+. He explained the building coverage is well below what is allowed. There is a tennis court in the back and it counts as impervious coverage. 20% impervious coverage is allowed and we are proposing 23.8%. That is the reason we are here. He said they will add the re-charge system. Mr. Gerken said they submitted a plan. Mr. Peterson said this will actually be better.

Mrs. Morrissey said it is a beautiful piece of property. Will you do anything with landscaping? Mr. Peterson said some shrubs and low plantings with annuals and perennials. The back is very nice now. We've already done some plantings there. There is not a lot that needs to be done. We will keep the front lower.

Chairwoman DeSarno asked if the trees will remain in the back. Mr. Peterson said yes.

Mrs. Burne asked if they were going to add an open porch on each side. How is that going to affect the windows? Mr. Peterson said the existing first floor windows are not near the new covered porch. The first floor only will be covered.

Mr. Peterson explained they do not want a property that is over-built. The more impervious coverage you have the more run-off. We are handling the new impervious coverage. When done the property will not look over-built. It will be nicely landscaped. It is a large piece of property. There will be no negative impact on the neighbors.

The application was open and closed to the public.

Mrs. Morrissey made a motion to approve the application subject to the installation of roof recharge and additional plantings. Mr. Morris seconded the motion, which was unanimously approved by a roll call vote. (Mrs. Morrissey, Messrs. Morris, Margadonna, Mrs. Draper, Messrs. Orender, Slocum and Mrs. DeSarno voted yes.)

#BOA29-2009 – Date application complete: October 15, 2009

APPLICANT: RAY H. MISNER

PROPERTY: 1154 17th Avenue, Block 63, Lot 79, R-7.5 zone

RELIEF REQUESTED: Bulk

Attorney Cramer reviewed the file and stated the Board had jurisdiction to proceed.

Entered into evidence:

- A-1 Jurisdictional Items
- A-2 Survey last revised October 1, 2009
- A-3 JCP&L plan review dated January 4, 2010
- A-4 Photo of yard where pool is going to be

BOA-1 Engineering plan review prepared by Glenn Gerken dated November 6, 2009

BOA-2 Planning plan review prepared by John Hoffmann dated December 16, 2009

Sworn by Reporter Arnone:

Ray H. Misner
Glenn Gerken
Cheryl Bergailo

Mr. Misner explained he would like to install a 12' X 26' in-ground swimming pool in his backyard. The lots in West Belmar are small and do not meet the requirement for impervious coverage. He said he meets all the setbacks. He said 40% impervious coverage is allowed and he is proposing 44% and 25% building coverage is allowed and he is proposing 28%.

Mr. Gerken said the impervious coverage is more. The ordinance counts the walk-way and pool itself. That will put you at 51.2%. When over on impervious coverage we like to have some ground re-charge. Put some of the roof run-off into a dry well system.

Mr. Misner said he will be agreeable to that. There are no gutters on the garage. Mr. Gerken asked where the water goes from the overhang on the house. Mr. Misner said it goes on to the black top. Mr. Gerken said you can put them over to the "M" Street. It is a small lot so it will be difficult. He said when it rains the pool will fill with water. In this case he is better off not having a re-charge system.

Chairwoman DeSarno asked about buffering. Mr. Gerken said John Hoffmann's review letter said it was okay. Mr. Misner explained nothing is coming down. If anything things will be added.

Attorney Cramer said you will maintain the existing landscaping. Mr. Misner said yes.

Mr. Slocum asked about additional fencing. Mr. Misner said the fencing is on two sides. There will be a separate fence around the pool area. It will be separate from the yard area.

Mrs. Morrissey asked if there were any objectors. Mr. Misner said no they are all looking forward to using the pool.

The application was open and closed to the public.

Mr. Morris made a motion to approve the application as applied for. Mrs. Morrissey seconded the motion, which was unanimously approved by a roll call vote. (Mr. Morris, Mesdames. Morrissey, Burne, Draper, Messrs. Orender, Slocum and Mrs. DeSarno voted yes.)

#BOA26-2009 – Date application complete: October 15, 2009

APPLICANT: SEAN & ELIZABETH FINEGAN

PROPERTY: 1604 West Pine Tree Way, Block 18, Lots 15 & 16, R-7.6

RELIEF REQUESTED: Interpretation/use

Attorney Cramer reviewed the file and stated the Board had jurisdiction to proceed

Timothy B. Middleton, Esq. appeared for the applicant.

Entered into evidence:

- A-1 Jurisdictional Items
- A-2 Survey dated April 9, 2001
- A-3 JCP&L plan review dated January 7, 2010
- A-4 Tax record that appears to be from 1982
- A-5 Photos (8) taken this afternoon showing the front house, rear house and property

Attorney Middleton said this is an unusual case.

Entered into evidence:

- BOA-1 Engineering plan review prepared by Glenn Gerken dated November 6, 2009
- BOA-2 Planning plan review prepared by Cheryl Bergailo dated November 10, 2009

Attorney Middleton explained the applicant purchased the house in 2000. At that time the rear house consisted of a two-family apartment. At the time they acquired the property Mrs. Finegan's father was ill and lived in the apartment near the main house. The lots are 35,000 s.f. in area. It is the largest single tract of property in that area. The single story dwelling is 40' from W. Pine Tree Way and then in the rear go back 95' and that is where the two-story dwelling is located. In 1988 the lot owner merged the two lots. Lots 15 & 16 were merged and became one lot.

Attorney Middleton explained the site has five times the property than what is required. Item 4 was provided to me by the tax assessor. On the rear lot as of 1982 there was an upholstery business and an apartment on the second floor. Sometime in the 80's the owner of the upholstery shop closed and sometime after that the store was converted to an apartment. When acquired the property in 2000 there was a two family house in the rear and house in the front. Everything was separate except for the electric meter. About a year ago the tenants were fighting over the electric bill. The applicant hired an electrician to put in another meter. They went in and started working and sometime thereafter the applicant received a letter from the Building Department

stating a building permit was not taken out. Zoning did an investigation. When the shop was converted into an apartment no approvals were obtained.

Attorney Middleton said the applicant is here tonight to first have the Board make an interpretation if this is a pre-existing non-conforming use. The Board can grant this without any negative impact to the neighborhood. There will be buffering on all sides.

Chairwoman DeSarno asked do you believe that a variance was necessary when converted from shop to residential. Attorney Middleton said his take would probably be no. At the time it was non-conforming. That would make it less non-conforming because you are going from commercial to residential.

Mrs. Burne said when used as a store isn't it possible that it was still under one use. They lived upstairs and had their business downstairs. Attorney Middleton said he knows at that time the two-story frame dwelling and one story were on one lot. I don't think that would matter. It was not a separate lot. Based on the survey you have multiple uses on one lot.

Attorney Middleton said in 1988 lots 15 & 16 were merged. In this case the shop and the apartment upstairs are all on one lot.

Attorney Cramer asked if these two lots were merged by deed. Attorney Middleton said yes.

Mr. Slocum said you talk about the lots being merged in 1988 Ms. Bergailo came up with some information from 1955. Attorney Middleton said Ms. Bergailo said the first zoning ordinance in Wall Township was in 1955 prior to that Wall did not have a zoning ordinance.

Chairwoman DeSarno asked if he has anything going back to 1955. Attorney Middleton said no.

Attorney Middleton said we know as of 1982 it was an upholstery shop and right after it was residential. If one converts to an apartment does one need a use variance? If you say yes we are here to ask for a use variance.

Ms. Bergailo said the interpretation has failed. It was an upholstery shop in the 80's and converted to an apartment in 1982 and no evidence it was permitted by variance. The case fails on that point alone.

Attorney Cramer said there is no information as to when this two family use of the rear building was established in 1955 or 1980.

Attorney Middleton said then I would go on to the use variance.

Attorney Cramer said there is no way you can satisfy this Board that there was a two family use in that structure. At one point in time it was a one family structure. The conversion took place without permits. Prove to us that you have a legal two family use.

Attorney Middleton said the Board is looking for times dates and the circumstances regarding the conversion.

Attorney Cramer said no one knows when it was a two family residents. Establish a time line as to what happened to that rear property.

8:30 P.M. the Board recessed.

8:35 P.M. the meeting resumed.

Attorney Middleton said he is withdrawing the interpretation.

Chairwoman DeSarno said this application will be carried to April 14, 2010.

Attorney Middleton waived the time limits.

Chairwoman DeSarno said no further notice is required.

RESOLUTIONS TO BE MEMORIALIZED:

SCOTT WAINWRIGHT - #BOA25-2009

Block 301, Lot 17.01

Morrissey/Morris

There being no further business to come before the Board, a motion was made, seconded, and unanimously approved to adjourn the meeting at 8:40 P.M.

Respectfully submitted,

Betty Schinestuhl
Recording Secretary