

**WALL TOWNSHIP BOARD OF ADJUSTMENT
MINUTES - REGULAR MEETING
MUNICIPAL MEETING ROOM
FEBRUARY 3, 2010**

Chairman DeSarno called to order the regular meeting of the Wall Township Planning Board at 7:45 P.M. Members present were Chairwoman Mary DeSarno, Vice Chairwoman Wilma Morrissey, Mr. Kevin Orender, Mr. Robert Morris, Mr. Ray Slocum, Mr. Mark Margadonna, Ms. Mary Burne, Ms. Nance-ellen Draper, Attorney Geoffrey Cramer, Engineer Glenn Gerken, Planner Cheryl Bergailo, Planning Board Secretary Roberta Lang and Substitute Recording Secretary Nicole Mucaro. Mr. James Gray was not present.

Attorney Cramer announced the meeting was being held in accordance with the Open Public Meetings Act.

SALUTE TO THE FLAG

NEW APPLICATION

MR. & MRS. GERARD RICCIARDELLI- BOA #30-2009 – Block 930 Lot 34 4300 Belmar Blvd Zone R-5 Application Deemed Complete 11/12/09 Applicant seeks permission to construct a 1,250 square foot garage, a 440 square foot pool cabana and an in-ground pool. Bulk.

Attorney Hirsch reviewed the file and stated the Board has jurisdiction to proceed.

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

Sworn by Reporter Arnone: Gerard Ricciardelli
Joseph Pillari,
Cheryl Bergailo
Glenn Gerken

Entered into evidence:

- A-1 Jurisdictional Package
- A-2 Driveway layout plan , prepared by Joseph V. Pallari, LLC, consisting of one sheet dated July 8, 2009, last revised September 16, 2009
- A-3 JCP&L plan review
- A-4 Zone Requirements
- A-5 Highlight of 2 acre zone
- A-6 Aerial of tax map
- A-7 Rendered site plan
- A-8 Landscape plan enlarged
- A-9 9 photo's
- A-10 Layout of garage and cabana

BOA-1 First Engineering Review prepared by Glenn Gerken, dated 1/25/10

BOA-2 Planning Review prepared by John Hoffman, dated 1/26/10

Joseph Pillari gave his credentials as a landscaper, which were accepted by the Board.

Attorney Middleton stated the applicant owns property on the corner of Belmar Boulevard and Schoolhouse Road, in an RR-5 zone, the property is roughly two and a half acres. While referencing colored rendering, it appears that most of the properties in the surrounding area are deemed undersized as well. The proposed driveway will actually assist in the difficult task of backing out of the driveway, along these two busy roads. The proposed garage is for the owner, a classic car collector, and is in no means meant for any living areas. The pool is going to be set on an area of the property already cleared of trees, and because it is then roughly 200' from the house, the cabana is proposed to be oversized to allow for more changing room, a storage area, a small kitchenette, and room for a table. There are currently two sheds in the front yard area, one will be moved into the rear yard, and the other will be removed. The proposed landscaping will be beneficial to the entire neighborhood area. At this point, Attorney Middleton asked Mr. Pillari if he was familiar with the property.

Mr. Pillari stated he is, and that the property is highly forested, mostly pine and maples, without much undergrowth. The current driveway is very awkward to maneuver. The driveway is on Schoolhouse Road, but the address is Belmar Boulevard, which makes it more confusing. The proposal will create safer turning and backing-out conditions. There will be proposed landscaping along Schoolhouse, about 60' off the road, but keeping the proposed garage mostly out of sight. The proposed pool sits nicely on the site without really any disturbance to any of the plant life. The cabana would include a little living area, a storage room, a kitchenette, and a half bathroom. No air conditioning would be proposed. The height of the cabana and garage would be below the 16' ordinance.

Mr. Slocum asked if the existing garage is to remain in use, what the capacity of the new garage is, and if there will be fencing around the pool.

Mr. Pillari stated that the original garage will be for the family vehicles, the new garage can hold three classic cars, and the fencing will be to code.

Chairwoman DeSarno voiced her concern about the height and proximity of the trees to Belmar Boulevard.

Mr. Pillari stated they would only be ornamental and 20' off the road, not to interfere with visibility at all.

Chairwoman DeSarno asked why the pool would be set so far from the house.

Attorney Middleton showed the aerial of the property, showing the natural clearing in the proposed pool area. Even the construction crew for the pool shouldn't really be disturbing any of the trees.

Vice Chairwoman Morrissey requested that the cabana be smaller in size, just to make sure it will not become an apartment in the future.

Mr. Ricciardelli stated that they could remove the storage area and cut the size back a bit, since he does still have a shed for pool supplies. The kitchenette would only house a microwave really, so it wouldn't be a stove, real kitchen environment. He would allow for the cabana to be 300 square feet in size instead of the proposed 400 square feet. He also stated the proposed garage is larger to accommodate for the antique cars, however, no mechanical work would be done there, it is simply for storage only.

Ms. Draper stated she thought the property was beautiful and wondered if any neighbors had given Mr. Ricciardelli any input on the proposal.

Mr. Ricciardelli said he had not heard any opposition from any neighbors.

Mr. Middleton said that there would be a restriction in the resolution for the cabana to never be used as living quarters to follow up with Ms. Morrissey's concerns.

Chairwoman DeSarno open and closed the application to the public.

A motion was made by Vice Chairwoman Wilma Morrissey to approve the application. A second was made by Ms. Draper, which was approved by a roll call vote (Ms. Morrissey, Ms. Draper, Ms. Burne, Mr. Morris, Mr. Orender, Mr. Slocum, Chairwoman DeSarno).

CARRIED APPLICATION

FREZZA IV, LLC- BOA # 17-2009 Block 769 Lot 4.01, 2933 Adams Street. Zone R-15
Application Deemed Complete 8/4/09 Subdivide lot into 3 conforming lots. The existing lot contains two single family dwellings and a cottage and only one of the dwellings will be removed. Use/subdivision © from 10/21/09

Barry Rosenberg, Esq. appearing for the applicant.

Sworn in by Reporter Arnone:

Stephen Fillippone
Darren Scalletti
Joseph Frezza
Gary Stillaro

- A-1 Jurisdictional Package
- A-2 Preliminary and Final Site Plan , prepared by EDA consisting of six (6) sheets dated 7/9/09, last revised 9/28/09

- A-3 Stormwater Management Calculations, prepared by Steven L. Filipoone, P.E. dated April 28, 2009
- A-4 Construction Specs, , prepared by Steven L. Filipoone, P.E. dated July 7, 2009
- A-5 EIS, prepared by Steven L. Filipoone, P.E. dated May 2009
- A-6 Colored Rendering
- A-7 Aerial Photograph
- A-8 PB Resolution 2000
- A-9 Stormwater Management Calculations, prepared by Engineering Design Associates. dated 9/23/09
- A-10 Construction Specs prepared by Engineering Design Associates, dated 9/23/09
- A-11 Preliminary and Final Site Plan , prepared by EDA consisting of six (6) sheets dated 7/9/09, last revised 9/28/09

- BOA-1 First Engineering Review prepared by Glenn Gerken 9/16/09
- BOA-2 Planning Review prepared by Cheryl Bergailo on 9/15/09
- BOA-3 W&S Engineering Review prepared by Carmella Roberts on 9/15/09
- BOA-4 Memo prepared by Ken Critchlow, Superintendent of Public Works dated 8/6/09
- BOA-5 Bureau of Fire Prevention Plan Review dated 8/11/09
- BOA-6 Second Engineering prepared by Glenn Gerken on 10/26/09
- BOA-7 Second Planning prepared by Cheryl Bergailo on 1/29/10
- BOA-8 Third Engineering prepared by Glenn Gerken on 2/1/10

Attorney Rosenberg stated the application is a request for a major subdivision with one of the lots boasting two dwellings. Revisions were made according to the October testimony taken, and the setbacks are now further from the road, a shed was removed, and a landscaping plan is available. Any plant types can be revised at request, and the gazebo next to the pool will remain. For the first time the neighborhood will really get to see the property.

Engineer Fillippone stated since the last hearing, everything on the TMX and Taylor Design Group letters had been addressed to his knowledge.

Vice Chairwoman Morrissey asked if there will be any impact with the two new lots on the two new lots, especially in terms of parking.

Attorney Rosenberg said that in 2000 this large lot was created, at that time there was the enormous wall put around the property and it enclosed three sheds, three houses, and this application is upgrading the entire property. Old large gates are coming down, the homes are being refurbished, and we are creating two totally conforming lots. All neighbors seem to be pleased that have communicated with Mr. Frezza.

Mr. Scalletti (of 2934 Adams Street) asked if the landscape plan removed the whole wall.

Engineer Fillippone stated that everything will be up to grade.

Mr. Frezza said that there will be differences on the two sides of the property in question because of the way the pool falls on the property. Portions of the wall in good condition will remain but three blocks will be removed off the top of the whole wall. It will not be totally even in height because of changes in the grading of the property, but will look roughly even. He also hopes to install a stockade fence between the front and rear properties for privacy. The coverage will be decreased, the grassy areas will improve, and the visual issues are solved by cleaning up and removing the wall.

Chairwoman DeSarno asked if the wall will be equal length on both sides of the property. She also asked if the wall lining the cottage would be repaired or removed. She had questions about the history of the property as well, what was it used for.

Mr. Frezza said close but not exact because of the pool on the left side. It will be as equal as possible, about 20' on one side setback and 26' on the other side, not noticeable from the front of the property. The cottage wall is going to be removed and another retainer will be installed. The property, at time of purchase was a legal non-conforming, and the homes have been rented as far as he knew.

Ms. Burne asked if the tiers of the wall would be totally level and uniform.

Mr. Frezza explained that it would be equal, but not in height because of the grading of the property.

Chairwoman DeSarno asked if there would be shrubbery or some form of screening around the driveway area and if he could use something besides gravel for the driveway.

Mr. Frezza agreed to the shrubbery and the driveway as either concrete or pavers.

Mr. Slocum noted that he is glad to see such an improvement on the property.

Chairwoman DeSarno asked if there were any questions from the public.

Mr. Gary Stillaro commented that it would be a huge improvement and asked if both walls will be back about 26'.

Engineer Gerken said it looks about that way, as long as it doesn't end up interfering with the pool fence.

Mr. Frezza said it would be as close as possible; you wouldn't be able to tell with the naked eye if there are discrepancies between a few feet.

Mr. Orender asked if there was any potential of hazards from the wall and pool.

Mr. Frezza stated that the patio around the pool is about 8 feet and it would be to code, it would be quite a long jump for anyone to try and make it.

Chairwoman DeSarno opened up the case to the public for comments, there were none.

Attorney Rosenberg stated that most of the testimony revolves around the structures, and up against what was originally there it is a huge improvement. The impact is reduced, two conforming lots are made, and neighbors will be much happier.

A motion was made by Mr. Morris to approve the application. A second was made by Vice Chairwoman Morrissey which was approved by a roll call vote (Mr. Morris, Ms. Morrissey, Ms. Burne, Mr. Morris, Mr. Orender, Mr. Slocum, Ms. Draper, Chairwoman DeSarno).

NEW APPLICATION

GASPER GIORDANO- BOA # 13-2009 Block 804 Lot 58, 1821 Celeste Drive. Zone R-60 Application Deemed Complete 6/24/09. Applicant received approval to add a two car garage to his premises the application limited the use of the second floor of the garage to storage purposes only. Applicant requests permission to be able to use the said area for residential purposes. Bulk © from 9/16/09, 10/21/09, 12/2/09, 12/16/09, 1/20/09

Mark Aikins, Esq. representing the applicant.

Sworn in by Reporter Arnone: Gasper Giordano

- A-1 Jurisdictional Package
- A-2 Survey prepared by Frank. J. Ernst, PLS dated 3/25/05
Architectural Plans prepared by Anthony Church, consisting of two (2) sheets.

BOA-1 First Engineering Review prepared by Glenn Gerken on 7/13/09

Attorney Aikins stated in 2005 Mr. Giordano came before the board for the original application for this garage in question. He read parts of the 2005 resolution noting that the resolution clearly stated that it should not be used as living space. Tonight they are requested an adjustment to that resolution, allowing for basic family computer and office space above the garage.

Mr. Giordano stated that currently the garage is beautiful on the outside and inside. The façade matches the house perfectly, the inside it finished nicely, there are currently files inside the attic of the garage, but it is finished in accordance with the 2005 resolution. This request wouldn't actually require any construction. It would be a home office, private space to study, use the computer, use filing cabinets, and there would be no impact or changes on the exterior. The hours would be normal hours that the family would be active inside the residence. He owns Wendy's Franchises and will conduct some phone calls and computer work, but no business meetings, no training, no ordering of supplies. Strictly home office use.

Vice Chairwoman Morrissey questioned how many square feet and rooms, and how come a home office couldn't be put inside.

Mr. Giordano stated it is an 11 room home including bedrooms, the living room, the kitchen, and bathrooms, about 5,000 square feet. He has six children, and all the rooms are utilized. The second floor of the garage is only office use, never to be used as an actual room. The only bathroom is on the ground level in the house.

The application was open and closed to the public.

A motion was made by Vice Chairwoman Wilma Morrissey to approve the application. A second was made by Ms. Burne, which was approved by a roll call vote (Ms. Morrissey, Ms. Burne, Ms. Draper, Mr. Morris, Mr. Orender, Mr. Slocum, Chairwoman DeSarno).

CARRIED APPLICATION

Chairwoman DeSarno and Mr. Slocum recused themselves from this application.

DAVID & CATHERINE SIMS- BOA# 25-2008 Block 943 Lot 8 1634 Martin Road. Zone R-60. Application Deemed Complete 9/9/08. Applicant requests relief from the board to keep Quonset huts, garage, carport, and 63' windmill. The windmill will be used to operate an alternative energy business in a residential zone. Use © from 11/5/08, 1/14/09, 4/1/09, 6/3/09, 8/5/09, 10/21/09

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

Sworn in by Reporter Arnone: David Cook (1626 Martin Road)
Alex Mourcade (1628 Martin Road)

- A-1 Jurisdictional Packet
- A-2 Survey of property, prepared by Charles Surmonte dated 2/26/08 last revised 7/23/08
- A-3 Aerial Photo dated 2007
- A-4 Photographs from June of 2009

- BOA-1 Initial Engineering prepared by Glenn Gerken on 10/6/08
- BOA-2 Initial Planning prepared b Cheryl Bergailo on 9/30/09
- BOA-3 2nd Planning prepared by Cheryl Bergailo on 3/30/09
- BOA-4 Building/Code Enforcement Report dated 2/10/09
- BOA-5 Building Department Report prepared by Robert Torrence on 3/30/09

Attorney Middleton began with stating that all of the issues previously faced with the building department had been clarified. Originally the application involved 3 huts for storage, a 63'

windmill that was initially a ham radio tower, approved years ago, a home office use, and multiple businesses being operated. Tonight the application is removing all of the huts, and all the businesses have been moved off site. The application is for the 63' wind turbine, and the home office use.

Mr. Fitzpatrick (previously sworn) stated that they require 200' for a setback/fall zone for the tower and are just slightly under. He will be planting shrubs for buffering, and the property is fairly secluded to begin with. The tower is roughly 200' from the nearest dwelling and 75' from any property line.

Attorney Middleton also noted the carport with solar panels on the top of it, which is actually creating a positive energy flow.

Mr. Fitzpatrick added 35 kilowatts, which is nearly enough to service seven average sized homes with air conditioning on.

Mr. Middleton said that this application should not be considered under the same pretense as other wind mill applications; there were federal government approvals for the actual structure of the tower itself. The ham radio tower is a license permitted by the federal government, outside the boundaries of the township. Also, the tower is half the size, and there are far fewer variances requested than were proposed originally. The applicant even requested and was approved for electrical permits from the building department a few years ago.

Vice Chairwoman Morrissey told Attorney Middleton she would like to see Paul Rabenda, Robert Malone, and Robert Torrence at the next meeting to see what is going on with their department in terms of problems. At this point the application was open for questions to the public.

Mr. Dave Cook (1626 Martin Road) asked Mr. Sims which one of the seven trucks on his property daily his secretary drives to work each morning.

Mr. Sims responded that she drives a car, and that he owns a few vehicles himself.

Mr. Cook asked him if he meant the two red and white trucks and the van with a lift. He also asked if his secretary does manual labor, or do assembly of solar panels outdoors.

Mr. Sims said he has kids and they come to visit, he has friends, and a few are his own. And as for the secretary, he responded no.

Mr. Alex Mourcade (1628 Martin Road) asked if the office use would just be for paperwork, and is the office in question one of the huts.

Mr. Sims answered yes to both questions.

Vice Chairwoman Morrissey asked for statements from the public.

Mr. Cook stated that he has seen 7 trucks at the house over the weekend, sometimes 8 to 10 showing up at a time. The Sims' have two buildings, three tents, a solar monstrosity, no permits, and trucks are loaded up and go off each day. The FCC doesn't give permits for towers, just

licenses for the actual ham radio, so the tower permit isn't accurate. There are plenty of industrial facilities in Wall, if that is what he is looking to do, move it out of this residential zone. There are empty boxes from solar cells all over the property, there are tubes and pipes from an old sprinkler business, there is an 18' discrepancy between our property lines and there is stuff all over my property. He wants it all to stop.

Attorney Middleton asked if he had any objections to noise on the property, and if he can see the windmill from Martin Road.

Mr. Cook responded he doesn't like hearing it, and he does have an objection, he hasn't yet made a complaint. As for the sight of the windmill, he said no, he cannot see it from the road, but he can from his backyard, the only time he doesn't see it is in the summer when the leaves cover it.

Attorney Middleton said they had planted evergreens and should fill in to keep them out of his view in the summer.

Mr. Cook said he doesn't know how they will grow and doesn't feel like that's a solution.

Attorney Middleton asked for a description of his secretaries, and if he does have an objection to a three person office.

Mr. Cook said hands-on working men, come between 7:45 a.m. and 9:00 a.m. and can see it from the back door of his house, has seen it maybe ten times, he says wife sees it basically daily. Mr. Cook also doesn't believe it will ever be a three person office, and therefore does object.

Mr. Mourcade states that many cars go in and out of the property, he states Mr. Sims can have a home professional office, but he doesn't want a commercial business being run out of a residential area. He thinks everything would be fine if that's what was happening and if everything else was up to code.

Vice Chairwoman Morrissey asks who else is on the property is it a multi-family residence.

Attorney Middleton responds single family.

Mr. Sims states his friend is currently living with them. His kids have all moved out but still come to visit. His daughter moved her business to Atlantic Highlands, 68 Main Street called Bright Alternatives. His son owns a business at 222 Hwy 522 in Manalapan. There is no way the property on Martin Road is going to be used commercially. He has cleaned up the property in accordance with Mr. Rabenda, loading up eight dumpsters of materials. The only construction in the future might be an addition to his home, not commercial use.

Ms. Burne asks how long it would take for him to take down the huts and finish cleaning up the rest of the construction debris.

Mr. Sims answered two, maybe three months.

Mr. Orender asked when the approved ham radio tower was created into a windmill.

Mr. Sims answered not exactly sure, and not sure what his FCC approval was for exactly.

Mr. Orender cited Mrs. Sims' letter and stated that it says she never got permits and was "creative". It also says that in 2002, an application for a generator was denied through the zoning office. You were never approved for a windmill.

Attorney Middleton said they have to look into the wording of the permit issued by the FCC.

Mr. Sims stated he got approval for the tower and the generator through the building department and that these windmills are becoming very important.

Vice Chairwoman Morrissey added that the letter from Mrs. Sims stated that the windmill was necessary because of the high power costs of running businesses.

Mr. Sims said the businesses had been relocated as discussed before.

Attorney Middleton said that he knows the applicant isn't pristine in terms of his record with the Zoning department, but Mr. Rabenda has straightened everything out that needed to be dealt with, and hopefully the rest can be put in the past. The application is narrower now, and hopefully at the next meeting more can be discussed.

Mrs. Lang gave the new date for the Sims application as April 21, 2010.

Vice Chairwoman Morrissey requested that the property be cleaned up and the huts removed by that date.

Attorney Middleton agreed to those provisions.

RESOLUTIONS TO BE MEMORIALIZED

SAGE – BOA # 28 -2009

Block 804 .04 Lot 47

Ms. Burne moved to adopt the resolution. Mr. Morris seconded the motion, which was unanimously approved by a roll call vote.

MISNER- BOA #29 -2009

Block 63 Lot 79

Mr. Morris moved to adopt the resolution. Ms. Draper seconded the motion, which was unanimously approved by a roll call vote.

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There being no further business to come before the Board, a motion was made, seconded and unanimously approved to adjourn the meeting at 10:42 P.M.

Respectfully submitted,

Nicole Mucaro

Substitute Recording Secretary