

**TOWNSHIP OF WALL
ZONING BOARD OF ADJUSTMENT
MINUTES OF THE REGULAR MEETING
HELD IN THE MUNICIPAL MEETING ROOM
APRIL 21, 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 DeSarno, Vice Chairwoman Wilma Morrissey, Jim Gray, Ray Slocum, Kevin Orender, Robert Morris, Nance-ellen Draper, first alternate Mary L. Burne, Attorney Cramer, Planning Secretary Roberta Lang, Recording Secretary Betty Schinestuhl, Engineer Gerken, Planner Bergailo, Engineer Zahorsky, Planner Hoffmann and Reporter Arnone. Mr. Margadonna 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 announced the Sims application will not be heard tonight. It is being carried to May 5, 2010.

NEW APPLICATION

#BOA 6-2010 – Date application complete: March 25, 2010

APPLICANT: ANGELO DEBARTOLI

PROPERTY: 1208 Laurel Avenue, Block 710, Lot 12, R-20 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 Map prepared by Joseph L. Lazok dated October 12, 2009
A-3 Elevations, five pages, dated February 22, 2010 prepared by Excel Homes
A-4 Plot plan prepared by Ray Carpenter dated March 4, 2010

BOA-1 Engineering plan review prepared by Matt Zahorsky dated April 15, 2010
BOA-2 Planning plan review prepared by John Hoffmann dated April 15, 2010
BOA-3 Zoning standards prepared by Matt Zahorsky and John Hoffmann dated April 14, 2010

Sworn by Reporter Arnone:

Matt Zahorsky
John Hoffmann
Angelo DeBartoli
Terry Hegel

Mr. DeBartoli said he is looking to move his residence to Wall Township and construct a new home. It will be a cape style home. He said he wanted to make it a little different. He was going to add a 16' X 16' building attached to the side of the house to make it look different. It didn't look right so we raised it up another ½ story to make it look architecturally pleasing. When designing we found out we were above the height requirement so we decided to make it storage space.

Mr. Hegel said this is considered a third floor. This is a cape. It is a three bedroom house. There is a lack of storage space. With this tower came additional storage space. The maximum allowable knee wall is 2' and we have 5'. We are asking the Board to consider allowing us to have that. It is only 33' to the tower. The third floor will not be living space. It is just designed for storage.

Chairwoman DeSarno asked Mr. DeBartoli to go over John Hoffmann's review letter, Items 9 – 12. Mr. DeBartoli said regarding Item 9 we are just looking for extra storage above what we have so we don't have to run up and down the stairs. Item 10 landscaping, I am a landscape technician by trade, we are going to be landscaping it. I already started putting in trees. It will pretty much conform to what the area is, a lot of evergreen trees, plantings around the driveway and in the back yard. Mr. Hoffman asked Mr. DeBartoli to submit a landscape plan to him. He said just give us an idea of what you want to put in.

Mr. DeBartoli said, referring to Item 11, the drainage box structure at the rear corner of the property. It is a drainage box. It was used for the pool backwash. We will change the filter system. We are going to have that removed. Mr. Hoffmann said fine.

Mr. DeBartoli said, referring to Item 12, the shed will be removed. We are putting up a new one and it will conform to the setbacks. All fencing is going to be re-done. The chain link fencing around the pool will be changed.

Mr. Zahorsky said he just has some minor issues and they can be taken care of at the time of building permits.

Mr. Slocum asked about the garage. Mr. DeBartoli said we are going to add a detached garage it is on the site plan.

Mr. Slocum asked if there will be a basement. Mr. DeBartoli said yes.

Mrs. Morrissey asked if there will be any storage in the garage or in the basement. Mr. DeBartoli said in the garage he will house a classic car. In the basement we want a place for our grandchildren to play.

Mrs. Morrissey said compare the house to the character of the neighborhood. Mr. DeBartoli said it will be very similar to what is in the area. We are trying to stay with the character of the neighborhood. There are a good handful of ranches, capes and other styles.

Mrs. Morrissey asked about the underground dry well system. Mr. Zahorsky said he answered that. I understand there is going to be a new shed. The shed has to stay the same size as what is there now because of impervious coverage.

Mr. Gray said the concrete pad by the drywell you will be removing that. Mr. DeBartoli said yes.

Mr. Gray asked the fence will be in compliance. Mr. DeBartoli said yes.

Mr. Zahorsky asked the concrete around the pool are you going to leave it or improve it. Mr. DeBartoli said he was just going to clean it and re-landscape there.

Mr. Hoffmann said his report of April 16 should be put into evidence.

Entered into evidence:

BOA-4 Planning plan review prepared by John Hoffmann dated April 16, 2010

The application was open and closed to the public.

Mrs. Morrissey moved to approve the application subject to a landscape plan being submitted, an as-built survey being submitted, plot plan showing three stories and the shed being placed in the same foundation, replace the fence, change the filter system and remove the drainage box. Mrs. Draper seconded the motion, which was approved by a roll call vote. (Mesdames. Morrissey, Draper, Messrs. Morris, Orender, Slocum and Mrs. DeSarno voted yes. Mr. Gray voted no.) The application was approved.

Chairwoman DeSarno recused herself on the Harpoon Willy's application.

CARRIED APPLICATION

#BOA 19-2008 – Date application complete: June 20, 2008. Carried from August 20, 2008, September 17, 2008, November 12, 2008, December 3, 2008, February 4, 2009, March 18, 2009, April 1, 2009, May 20, 2009, July 15, 2009, November 4, 2009, March 30, 2010 and March 17, 2010

APPLICANT: SQUAN RIVER GROUP

PROPERTY: 2655 River Road, Block 886, Lot 1.01 & 24, R-30 zone

RELIEF REQUESTED: Use

Mark Aikins, Esq. appeared for the applicant.

Attorney Aikins said he would like to re-call Joseph Kociuba, Engineer/Planner, to give testimony regarding the prior application and this application. The prior application was denied in September 1986. He will then go over parking on-site and off-site.

Mr. Kociuba, still under oath, said he has reviewed the resolution from September 1986. The previous application proposed a 1,750 s.f., 36' X 60' deck. It extended along the residential area facing the river. There were ten tables, 40 seats. There were canvas awnings and live music. There was no evidence of additional landscaping. The operating hours were 10:00 P.M. on

weeknights and midnight on weekends. The setback was 48' from the deck to the property line to the west of the site.

Mr. Kociuba went over the current application. The proposed deck is 804 s.f. It is a 54% reduction from the one in 1986. There will be 30 seats on the deck. There will be a structured roof over the deck. There will only be background music, small speakers. We are proposing significant landscaping. We are reducing the lighting spillage. The hours of operation will be 9:00 P.M. on weeknights and 10:00 P.M. on weekends. The setback to the residential properties will be 74'. We will obtain lease agreements with the property owners regarding parking.

Attorney Aikins said on that basis unless he has facts contrary to absolve res judicata and this is not similar to 1986.

Entered into evidence:

A-18 Lease agreement dated January 1, 2009 between Bahadurian and Squan River Group. It is for five years with an additional three five year options. It is for 22 parking stalls

A-19 Lease agreement dated January 1, 2009 between Ed McCarthy and Squan River Group for a five year term with three five year options. It is for 19 off-site stalls

Mrs. Morrissey said that is fine for after 6:00 P.M. what happens during the day.

Mrs. Burne asked if there were any conditions.

Attorney Aikins said we will go through that. We are just trying to show the differences in the applications.

Attorney Steinberg said he prepared a memo to the Board regarding res judicata. This is a factual issue. This is a pre-existing non-conforming use. That has not been changed. The decision of 1986 should prevail. It is a deck for patrons to eat. The size of the deck is different, the hours are different but you are still putting on a deck so people can eat outdoors.

Attorney Aikins said it is 1,750 s.f. vs. 804'. Attorney Steinberg said that is correct.

Attorney Aikins said it was for 40 seats in 1986 and now it is for 30 in 2010. Attorney Steinberg said correct.

Attorney Aikins said in 1986 they proposed canvas awnings. Attorney Steinberg said he did not see the plans from 1986. He said the size was not in the resolution. Putting a deck on in 1986 they are doing the same thing now.

Attorney Aikins said #7 of the 1986 resolution states there will be canvas awnings on the deck. Attorney Steinberg said he will stipulate to the resolution. The use is the same. There have been no changes to the Master Plan in this area. Res judicata has to apply.

Entered into evidence:

O-2 Memo written by Attorney Steinberg

Attorney Aikins said he will provide a memo in response.

Entered into evidence:

A-20 Area parking exhibit

Mr. Kociuba said the parking exhibit was prepared by his office. He showed the parking on the site and the surrounding sites. He showed where parking in the office building will be and the spaces at McCarthy's. This is across the street. We are proposing 66 parking stalls on site and 22 at the office building for a total of 88.

Mr. Slocum said it is a good idea but what happens if the property goes up for sale. Attorney Aikins said the leases are binding. The new buyer has to go by this agreement. They will extend for the next 20 years.

Mrs. Burne said after five years can it be cancelled. Attorney Aikins said no.

Mr. Morris asked where Brielle stands with this, offering the property as a parking lot. Attorney Aikins said the use of the parking lot does not change. There is no jurisdictional issue, no modifications.

Mr. Morris said there is a change in the use. Attorney Aikins said there is no change in the use. There is parking now and there will be parking when used by Harpoon Willy's.

Mrs. Burne said the tenants at the office building require some parking and you are now adding to it. Attorney Aikins said the hours at Harpoon Willy's are 6:00 P.M. to 1:00 A.M. and 12:00 P.M. on Saturday. There would be no conflict. There are no improvements, no change in use.

Attorney Cramer said if any approvals are required by Brielle you would get them. Attorney Aikins said yes.

Mrs. Morrissey asked if Brielle was aware of this agreement. Attorney Aikins said he didn't know. It is not an application for development.

Attorney Steinberg asked about the parking. Attorney Aikins said 66 on site, 19 at McCarthy's and 22 at Bahadurian's.

Attorney Steinberg asked how does all this get controlled, someone from the town goes out every five years? Attorney Aikins said the applicant can serve notice on the Board.

Attorney Steinberg asked if Attorney Aikins was familiar with Brielle ordinances. Attorney Aikins said that is not an issue here. Attorney Cramer said if Brielle has requirements we will adhere to them. Attorney Steinberg said there is a shared parking ordinance in Brielle. He said the agreements with the adjacent property owners were not presented until tonight. Now you need approval from Brielle.

Mr. Gray said these are dated January 1, 2009. He said he was surprised they were done then and why are we just seeing them now. Attorney Aikins said we are at the point of the presentation where they are relevant.

Attorney Cramer asked Attorney Steinberg if he had a copy of the Brielle ordinance. Attorney Steinberg said yes, 21-31.16, 17 & 18.

John Rea was sworn. Mr. Rea gave his credentials which were accepted by the Board.

Mr. Rea said he has reviewed the application.

Attorney Aikins asked who will control traffic and parking functions. Mr. Rea said the problem was primarily parking. He said he has done several things. He said he has worked with the applicant over the last year to have the off-site parking in place. It is not unusual for a restaurant to have off-site parking when they need those spaces. From May thru October 107 spaces will be provided. They will be available when the deck is open. 107 provided and 98 required. From October thru May 88 provided and 88 required. We have the parking problem solved. There was a question as to what happens at lunch time when the office building parking is not available. During the week at lunch time there is no parking issue. You will see people parked along River Road it is legal for them to park there until 8:00 P.M.

Mr. Gray said that has been in place for 16 months. There were no parking problems for the neighbors last summer. Mr. Rea said he did notice people parked on River Road after 8:00 P.M. that is what is creating the problems. There are signs in the restaurant lobby telling patrons where they can and cannot park.

Mr. Gray asked if there was anything else the owners can do regarding parking after 8:00 P.M. Mr. Rea said there is not much more they can do.

Mr. Slocum said doesn't the Police Department have to enforce that. Mr. Rea said the Police Department can observe someone illegally parked or one of the neighbors can call. It is a matter of enforcement. They park on River Road not because there is no other place to park but because it is more convenient.

Mr. Gray said the deck seating is for 30 people. I thought you were closing that little side room when the deck is open. Attorney Aikins said no we were only going to do that if we could not get the available parking.

Mr. Gray said being it is going to be available for the next 20 years there will be 30 more people going to Harpoon Willy's in the summer. Attorney Aikins said these owners have taken great pride in this and they have changed the nature of the facility from what was there before.

Attorney Steinberg said it was his understanding that when the deck was open the side room would be closed so the intensity would not be increased. Attorney Aikins said then why go through getting more parking spaces. No additional staff is proposed. There is a deck that would hold 30 additional patrons.

Attorney Steinberg asked Mr. Rea if he was familiar with the ordinances in Brielle. Mr. Rea said no.

Attorney Steinberg said the layout did you design that. Mr. Rea said Joe Kociuba did part and I participated.

Attorney Steinberg asked if it was good traffic planning to back out of parking spaces. Mr. Rea said it is acceptable.

Attorney Steinberg asked if River Road has lighting. Mr. Rea said yes.

Attorney Steinberg asked about Old Bridge Road. Mr. Rea said all municipal roads have lighting and there is also lighting at the intersections.

Attorney Steinberg said he knows there is lighting on municipal roads but to be able to back out safely. Mr. Rea said Old Bridge Road is a dead end. River Road gets more traffic but it is adequate.

Attorney Steinberg said portions are on the ROW. Mr. Rea said on Old Bridge Road.

Attorney Steinberg asked if there was an approved site plan for the site. Attorney Aikins said since the 1800's no site plan. If the application was withdrawn would any conditions present existing change? Mr. Rea said he doesn't think so the restaurant has been there for years.

Attorney Aikins asked about egress and ingress. Mr. Rea said it functions safely.

Wendi Schuerman, 2652 River Road, said on the parking area there is no pavement and no lines. The 19 parking stalls on McCarthy's site is dirt. Is a CAFRA permit needed and has it been approved by the DEP. Mr. Kociuba said those stalls are not delineated by any paving and will have wheel blocks. On the applicant's portion there is stone parking now. Our intent is to clean up and characterize those spots. We will maintain those spots so they are more delineated. We are not proposing any pavement. CAFRA permits, the nature of the improvements are maintenance. The survey showed 10 stalls in that area. There is a tree that is covering the pavement. We will trim the tree back to provide the necessary parking. There will be no additional coverage so no DEP/CAFRA permit is needed.

Ms. Schuerman asked what about McCarthy's. Mr. Kociuba said it is seasonal in nature. The stalls are delineated.

Kevin Schuerman said are you stating there is no CAFRA needed. Mr. Kociuba said yes.

Attorney Aikins said no improvements at McCarthy's or Bahadurian's. Mr. Kociuba said none.

Michael Fried, 2647 River Road, asked if the garage was conforming. Attorney Aikins said it will not change. It is a prior existing non-conforming use.

Mr. Fried said the Board can ask you to move the garage.

Mr. Gray asked what his problem with the garage is. Mr. Fried said he is trying to bring it into conformance. Mr. Gray said it is not part of this application.

Mr. Slocum asked if there was some way that the parking spaces can be delineated even though there is no paving. Attorney Aikins said there could be signage all parking to be head on. We can delineate them in May just for the season but it would not be permanent.

Sal Stagliano, 2647 River Road, asked if the parking along McCarthy's was available last summer. Attorney Aikins said those spots were not available.

Mr. Stagliano said why pay for 16 months and not have those spots available. Attorney Aikins said the requirement of this agreement and good planning.

Mr. Stagliano said from May until October there will be a lease. Attorney Aikins said there is a contract for the applicant to use those spaces if the Board approves the deck.

Mr. Stagliano asked how wide a normal parking space is. Mr. Kociuba said 9'.

Mr. Kociuba explained the Board can grant a "D" variance as long as we show no detriment to the standard good. The site is suitable. The proposed use of outdoor dining does fill a need in the community. It promotes enjoyment of nature and the river. It is the only waterfront restaurant in Wall Township. It gives a scenic view of the river. It exists now. There is direct access to 70. It is surrounded by three commercial properties. It is suited for the use. There will be improvements to the parking conditions. It will benefit the area. There will be shared parking so no additional impervious coverage. The restaurant has existed for decades. It is next to the river.

Mr. Kociuba explained we will be adding buffering. It will reduce the impact on the adjacent properties. We are reducing lighting spillage by adding lighting shields. The deck has a residential character. The west side parking area will be shielded from view on Old Bridge Road. We are improving the parking therefore promoting safety. The site will have no increased noise. No additional deliveries are proposed. We are making the glass wall noise proof.

Mr. Kociuba explained we are proposing to remove the loud condensers and replacing them with quiet ones. The hours are 9:00 P.M. during the week and 10:00 P.M. Friday and Saturday. The deck will not be open after 10:00 P.M. The noise will be less than what exists today. We are adding additional trees to the buffer, that will screen the mechanical equipment. The applicant has gone above and beyond.

Mr. Kociuba explained all views will be better than it is today. No detriment to the surrounding properties. Lights will be shielded. No spillage on existing properties. There will be additional shields. The lighting impact will be reduced.

Mr. Kociuba went over the variances required.

Mrs. Morrissey said this application will be carried to May 19th.

Mr. Gray said we have a memo from Attorney Steinberg regarding res judicata will we be getting one from Attorney Aikins. Attorney Aikins said you will receive it before the next meeting, within the next two weeks.

WAYNE & SONORA FOSTER - #BOA 5-2009

Block 893.04, Lot 6

Mr. Orender made a motion to dismiss the Foster application without prejudice. Mr. Slocum seconded the motion and all members voted yes.

RESOLUTION TO BE MEMORIALIZED:

ROBERT LAMBROU - #BOA 1-2010

Block 880, Lots 15 & 15.01

Morris/Slocum

There being no further business to come before the Board, a motion was made, seconded, and unanimously approved to adjourn the meeting at 9:55 P.M.

Respectfully submitted,

Betty Schinestuhl
Recording Secretary