

**TOWNSHIP OF WALL
ZONING BOARD OF ADJUSTMENT
MINUTES OF THE REGULAR MEETING
HELD IN THE MUNICIPAL MEETING ROOM
MARCH 3, 2010**

The Regular Meeting of the Wall Township Board of Adjustment was called to order by Vice Chairwoman Morrissey at 7:30 P.M. Members present were Vice Chairwoman Wilma Morrissey, Jim Gray, 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. Mrs. DeSarno and Mr. Slocum were 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.

CARRIED APPLICATION

#BOA19-2008 – 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 and November 4, 2009

APPLICANT: SQUAN RIVER GROUP – HARPOON WILLY'S

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

RELIEF REQUESTED: Use

Mark Aikins, Esq. appeared for the applicant.

Attorney Aikins said he is new to this application. Mr. Fitzpatrick will give testimony regarding noise.

Entered into evidence:

- A-11 Proposed parking exhibit
- A-12 Colored aerial showing surrounding area
- A-13 Proposed noise assessment study

Attorney Steinberg asked if there were any amended plans. Attorney Aikins said they are on the Board. It reflects the new size of the deck.

Tim Fitzpatrick was sworn. He gave his credentials which were accepted by the Board.

Mr. Fitzpatrick said the deck has been reduced. There is no longer a lower portion of the deck. Five parking spaces have been removed and replaced with landscaping.

Attorney Aikins asked if there were any site changes. Mr. Fitzpatrick said there is a proposed fence and improvements on the north side of the site, the river side. We are also making improvements on the roof.

Attorney Aikins said on the northwest side of the property facing the residential neighborhood what are the existing conditions. Mr. Fitzpatrick said on the north side of the property there are six air conditioning units at grade. When we did the noise assessment we knew there were problems. We looked at the six AC units at grade in the front and two condensers on the side. We will install four new AC units. Taking out the older units we would be reducing the noise. We will replace them with new units.

Attorney Aikins asked what happens from the sound standpoint. Mr. Fitzpatrick said it will reduce the sound at the property line.

Attorney Aikins asked Mr. Fitzpatrick to discuss the northwest side. Mr. Fitzpatrick said there are two condenser units on top of the walk-in porch. There is no barrier between those and the neighbor's homes. We will change one of those units with a new unit and move it off of the walk-in and put it on the roof. The noise will be reduced. We will also put a reflector barrier in front of the AC units. That will reduce the sound.

Attorney Aikins asked what the levels are. Mr. Fitzpatrick said existing conditions nearest the river is 59 decibels. It is dominated by noise from 70. From receptor four it is 63 decibels. Mr. Fitzpatrick said when we modeled it we developed a design that provides for a wall along the west side of the property along the edge of the deck.

Mr. Fitzgerald said it will be 50 decibels along the entire property lines. In some places we are under the standard and we do not exceed the standard. In receptor four we will have changes from 63 to 50.

Attorney Aikins asked what the State standards are. Mr. Fitzpatrick explained 65 during the day and 50 at night. Attorney Aikins said even though Wall has a standard it is not approved by DEP. Mr. Fitzgerald said yes. Attorney Aikins said this will be at or below Wall standards. Mr. Fitzpatrick said that is correct.

Mr. Gray said you are a sound engineer. Mr. Fitzpatrick said no but his partner helped him with this.

Mrs. Burne said you are stating with the type of units you are putting in you are going to keep the noise lower than what is at present time. Mr. Fitzpatrick said that is correct.

Mrs. Morrissey said sector four was 63 and it goes down 13 points. Mr. Fitzpatrick said yes.

Ms. Bergailo asked Mr. Fitzpatrick to describe the wall in a little more detail. Mr. Fitzpatrick explained the wall in the front by the AC will be 6' high and 4' wide. It is a reflective wall. The design will be subject to your review. There would be a roof over the deck and the wall would run from the deck to the roof along the patio.

Ms. Bergailo said the wall along the deck what would it be made of. Mr. Fitzpatrick said glass, paneling, something to buffer the noise.

Ms. Bergailo asked for the decibel level of the activity on the deck, speakers, music. Mr. Fitzpatrick said about 80 decibels at a distance of 6' from the source. Ms. Bergailo asked about the property line. Mr. Fitzpatrick said unmitigated receptor two nearest the deck would be 54 decibels.

Ms. Bergailo asked how much the wall reduces it. Mr. Fitzpatrick said he doesn't have those numbers. I can get that to you. Ms. Bergailo said I think it helps to know the decibels on the deck and at the property line.

Attorney Aikins said one of the issues for Ms. Bergailo and the Board is to consider creating a condition for the deck that would meet or be below the standards.

Mrs. Morrissey said the architect would decide between glass, paneling, etc. Mr. Fitzpatrick said that is correct.

Mr. Gray said he would need to know what type of wall, glass or wood and will it have siding on it. Do they want all glass, all siding?

Mr. Orender said he agrees with Mr. Gray. Glass or wood would bring it down to what?

Mr. Gerken asked how far the deck will go out toward the river. Mr. Fitzpatrick said 23½'.

Mr. Morris said right now we have a proposed deck that is down to 30 people, an open patio dining the sound level will be lower. Attorney Aikins said that is correct with the proposed modifications.

Attorney Steinberg representing neighbors Haus & Rick asked if he had a degree for studies in sound. Mr. Fitzpatrick said no but his partner does.

Attorney Steinberg said you are testifying to what he did. Mr. Fitzpatrick said yes.

Attorney Steinberg said you are saying the sound design complies with the ordinance. Mr. Fitzpatrick said yes.

Mr. Steinberg asked if he has done levels at the present time. Mr. Fitzpatrick said yes they are 59 decibels. Attorney Steinberg asked when they were done. Mr. Fitzpatrick said they were done August 17th between 3:00 and 8:00 P.M. Attorney Steinberg asked what type of equipment was used. Mr. Fitzpatrick said in his report it talks about the standards and as to how we collected the data.

Attorney Steinberg asked did you determine what the average crowd noise would be. Mr. Fitzpatrick said 30 people on an open deck and there are two condensers and six AC units at the current condition. We measured the sound with the equipment at a certain distance and established what type of noise.

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Attorney Steinberg asked if there is anything in the report regarding crowd noise. Mr. Fitzpatrick said yes in the report noise level is 60 decibel at 6'.

Attorney Steinberg said we are not talking about a fully compliant site plan we are talking about a pre-existing non-conforming use. This site is in violation of the current ordinance. Mr. Fitzpatrick said that is correct.

Attorney Steinberg said there will be additional noise from the parking lot in the rear and people going into the residential area.

Attorney Steinberg said the deck will have an 8' high wall on the west side. Mr. Fitzpatrick said the wall hasn't been designed.

Attorney Steinberg asked it will catch sound. Mr. Fitzpatrick said in the air.

Attorney Steinberg asked if it will have a roof and one side. Mr. Fitzpatrick said yes.

Attorney Steinberg said with the roof and enclosure on the one side I don't know if it is still a deck or if it is an addition.

Attorney Steinberg said sound doesn't go behind the wall it just stops. Mr. Fitzpatrick said no. Attorney Cramer said it is reflected.

Attorney Cramer asked you are bringing in an architect at the next meeting regarding the wall. Attorney Aikins said yes.

Attorney Steinberg asked about parking. Attorney Aikins said we will be coming to that.

Mrs. Morrissey said the Board needs time to go over the noise study.

Attorney Aikins said the idea here was to meet the standards.

Mr. Gray said this is an expansion of a non-conforming use and it is more than just sound to be considered. Attorney Aikins said that is correct but tonight was to deal with the sound. There are many other aspects.

Mrs. Morrissey said this will be carried to March 17, 2010.

APPLICANT: RAYMOND W. MARTIN

PROPERTY: 4400 Belmar Blvd., Block 930, Lot 36, R-5 zone

RELIEF REQUESTED: Bulk

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

Entered into evidence:

- A-1 Jurisdictional Items
- A-2 Survey prepared by George Edwards dated December 12, 1995
- A-3 Floor elevation and plan dated October 25, 2009
- A-4 Ordinance 140-202 garage ordinance
- A-5 Schedule of zoning requirements dated July 15, 2004

- BOA-1 Engineering plan review prepared by Glenn Gerken dated February 19, 2010
- BOA-2 Planning plan review prepared by John Hoffmann dated February 23, 2010

Sworn by Reporter Arnone: Raymond W. Martin
Glenn Gerken
Cheryl Bergailo

Mrs. Morrissey asked what do you intend to do with the shed. Mr. Martin said he has a lawn mower in it. He can move it or get rid of it whatever the Board wants.

Mrs. Morrissey said, referring to Mr. Hoffmann's review letter, if it remains it should be on the plan. Impervious coverage will be higher than what is now proposed. Mr. Martin said where the shed is now is where he wants to put the garage.

Mrs. Burne said you are going to remove the shed if approved. Mr. Martin said if that is what the Board wants.

Mr. Gray asked for the dimensions of the shed. Mr. Martin said 8' X 10' it is not very big. Mr. Gray asked if it could be moved. Mr. Martin said yes it could be moved to the back.

Mr. Gray said he just thought it could be moved somewhere else. It is a beautiful wooded area back there. It is a nice shed. I don't have a problem with leaving it on the property just move it.

Mr. Gerken said the zone RR-5 requires five acres. This lot is more equal to the R-60 zone. In that zone you would have been allowed 20% of impervious coverage and this is 15.9%.

Mr. Martin said he has never been before any Wall Township Board before. This will be the most beautiful garage you have ever seen.

Mr. Gray asked for the size of the garage. Mr. Martin said it will be 25' X 40'.

Mrs. Draper said it is so far back you are not going to see the garage. I don't see any problem.

The application was open and closed to the public.

Mr. Gray moved to approve the application subject to an as-built survey being submitted. Mrs. Burne seconded the motion, which was unanimously approved by a roll call vote. (Mr. Gray, Mesdames. Burne, Draper, Messrs. Margadonna, Morris, Orender and Mrs. Morrissey voted yes.)

APPLICANT: EUGENE PILOT

PROPERTY: 1922 Vincent Court, Block 954, Lot 1, R-40 zone

RELIEF REQUESTED: Bulk

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

Entered into evidence:

- A-1 Jurisdictional Items
 - A-2 Topographic survey prepared by John S. Wallace signed on October 11, 2009
 - A-3 Plot plan prepared by Matthew R. Martin dated November 10, 2009 and a second plan with revised February 25, 2010
 - A-4 Garage plan prepared by Gary Nelson dated January 20, 2010
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- BOA-1 Engineering plan review prepared by Glenn Gerken dated February 17, 2010
 - BOA-2 Planning plan review prepared by John Hoffmann dated February 23, 2010
 - BOA-3 Engineering plan review prepared by Glenn Gerken dated March 1, 2010

Gregory Vella, Esq. appeared for the applicant.

Attorney Vella said the applicant is proposing a detached garage. Two variances are needed. The garage will be 1,800 s.f. Impervious coverage, as a result of the garage and the driveway will require a variance. Also a variance is required for garage size. The purpose of this garage is not for commercial use. The applicant stores a large trailer and truck on the property. He is going to take them out of the visible view of the neighbors and put them in the garage. Landscaping is proposed.

Sworn by Reporter Arnone:

Eugene Pilot
Glenn Gerken
Cheryl Bergailo

Mr. Pilot explained his property backs up to the Garden State Parkway.

Attorney Vella asked Mr. Pilot to explain why he needs a garage. Mr. Pilot said he wants to house his trailer and boat and it has to be that size to fit everything in.

Entered into evidence:

- A-5 Photo of car, trailer and boat

Attorney Vella asked if the picture that we are using, A-15, is that the same trailer in the aerial. Mr. Pilot said yes he uses that trailer to take the car to the car shop.

Attorney Vella asked what do you use the boat for. Mr. Pilot said it is a fishing boat.

Attorney Vella asked what business do you own. Mr. Pilot said an electric company in Neptune. Attorney Vella asked if he takes any of the equipment, trucks to your home in Wall. Mr. Pilot

said no. Attorney Vella asked have you ever brought any service trucks back to your home. Mr. Pilot said no.

Attorney Vella said will you deed restrict that this garage will not be used for commercial purposes. Mr. Pilot said no problem.

Attorney Vella said, regarding landscaping, describe what is on the north side of the property. Mr. Pilot said it is heavily wooded now.

Attorney Vella asked can you see your neighbors. Mr. Pilot said no.

Attorney Vella asked will you be able to see that garage with the landscaping. Mr. Pilot said no there are trees in the front that will get re-located to the south side and I will add landscaping to the south side. It will be the same as on the north side.

Attorney Vella asked what type of garage. Mr. Pilot said it will be very high end material. It will have a residential look.

Attorney Vella said the plans submitted to the Board those are the plans that you are going to use. Mr. Pilot said yes.

Attorney Vella said what color. Mr. Pilot said white to match the house and the sides moss to blend in with the trees.

Attorney Vella said you are providing additional landscaping and that would reduce some of the noise from the parkway. Mr. Pilot said yes.

Attorney Vella asked about the Engineer's review letter regarding a re-charge system. Mr. Pilot said that will be no problem.

Attorney Vella said one of the other variances is for impervious coverage part of that is the stone driveway and the new garage. Mr. Pilot said correct.

Attorney Vella asked if you will be able to see this garage from Vincent Court. Mr. Pilot said no.

Attorney Vella said this will be an improvement aesthetically putting the trailer and boat inside. Mr. Pilot said yes.

Attorney Vella asked what do you plan on doing in the garage. Mr. Pilot said just storage.

Attorney Vella asked about utilities. Mr. Pilot said just electric for lighting.

Attorney Vella asked do you think the garage will have a negative effect. Mr. Pilot said no.

Attorney Vella said there is an issue that you are building too close to the conservation easement. Mr. Pilot said there is nothing there and it is mostly green. Attorney Vella said you are not proposing to go into the easement. Mr. Pilot said no.

Mrs. Morrissey said there will be no encroachment. Attorney Vella said not at all, no disturbance. Prior to issuing a C.O. the Township Engineer/Planner can re-inspect it to make sure there is no disturbance. Mr. Gerken suggested, prior to construction, putting up orange fence so everyone knows where the conservation easement is. Attorney Vella said no problem.

Entered into evidence:

A-6 Photo of property in township that has boat and trailer in driveway

Mr. Pilot said this shows another property where the owner has a trailer similar to mine in the front yard.

Mrs. Morrissey asked about the driveway. Mr. Pilot said the current driveway the stone moved around because of the plowing of snow.

Mr. Gray asked about the piles of stone. Mr. Pilot said in the back that is just crushed stone. A friend gave me that for the garage.

The application was open and closed to the public.

Mrs. Draper moved to approve the application. Mr. Gray seconded the motion. Mrs. Morrissey added the conditions deed restrict so there is no commercial use, a re-charge system, yellow fencing around the easement and additional plantings on the south side. The application was unanimously approved by a roll call vote. (Mrs. Draper, Mr. Gray, Mrs. Burne, Messrs. Margadonna, Morris, Orender and Mrs. Morrissey voted yes.)

APPLICANT: ROBERT & JUDITH HARMS

PROPERTY: 2519 River Road, Block 876, Lot 8, R-30 zone

RELIEF REQUESTED: Bulk

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

Keith Henderson, Esq. appeared for the applicant.

Entered into evidence:

A-1 Jurisdictional Items

A-2 Survey prepared by D. Ernest Dedges dated July 29, 2008

A-3 Plan review by JCP&L

BOA-1 Engineering plan review prepared by Glenn Gerken dated February 18, 2010

BOA-2 Planning plan review prepared by John Hoffmann dated February 14, 2010

Sworn by Reporter Arnone:

Robert Harms
Glenn Gerken
Cheryl Bergailo

Attorney Henderson said this is a simple application. The applicant is asking permission to erect a decorative security gate at the street end of his driveway. The fence will conform fully.

Attorney Henderson asked Mr. Harms if he is the owner. Mr. Harms said yes.

Mr. Harms explained he has received multiple threats on himself and his family. He is away a lot with his job. Half of June and July he had Police protection. He said he planted landscaping so no one can see if anyone is home. That was a little unsettling.

Attorney Henderson said the fence will conform. Mr. Harms said yes.

Attorney Henderson said this will be aesthetically pleasing. This will provide safety. There are no negative criteria. The columns are what make the whole fence will look better. The site is 2½ acres. You can hardly see the house because of the landscaping. Nobody will notice this. No negative issues at all.

Mrs. Morrissey asked about landscaping. Mr. Gerken said if you take a look at the site you have never seen this much landscaping.

Mr. Gray asked for the color. Attorney Henderson said black.

Mr. Orender asked about emergency services getting in. Mr. Harms said he will provide everything that is needed to the Police Department.

Mr. Gray asked Mr. Gerken about lights on top is that a problem. Mr. Gerken said you can put lights on top without approval.

The application was open and closed to the public.

Mr. Orender moved to approve the application. Mrs. Burne seconded the motion, which was unanimously approved by a roll call vote. (Mr. Orender, Mesdames. Burne, Draper, Messrs. Gray, Margadonna, Morris and Morrissey voted yes.)

RESOLUTIONS TO BE MEMORIALIZED:

LEONARD AND MARTHA SARR - #BOA 27-2009

Block 331, Lot 1.02

Gray/Burne

CHRISTOPHER CUMMINGS - #BOA 14-2009

Block 920, Lot 7

Draper/Morris

MINUTES TO BE ADOPTED: Mr. Orender moved to approve the minutes of the study session and regular minutes of January 20, 2010. Mr. Morris seconded the motion, which was unanimously approved.

Mr. Gray moved to approve the minutes of the study session and regular minutes of January 13, 2010. Mrs. Draper seconded the motion, which was unanimously approved.

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Mr. Gray moved to approve the minutes of the study session and regular minutes of February 17, 2010. Mr. Morris seconded the motion, which was unanimously approved.

There being no further business to come before the Board, a motion was made, seconded, and unanimously approved to adjourn the meeting at 9:25 P.M.

Respectfully submitted,

Betty Schinestuhl
Recording Secretary