

**TOWNSHIP OF WALL
ZONING BOARD OF ADJUSTMENT
MINUTES OF THE REGULAR MEETING
HELD IN THE MUNICIPAL MEETING ROOM
JULY 21, 2004**

The Regular Meeting of the Wall Township Board of Adjustment was called to order by Chairman Clayton at 7:55 P.M. Members present were Chairman Michael Clayton, Vice Chairwoman Mary DeSarno, Dominick Cinelli, Wilma Morrissey, Jim Gray, Anthony Rembiszewski, Wayne Palmer, first alternate Bob Kerr, second alternate Ray Slocum, Attorney Hirsch, Planning Coordinator Roberta Lang, Recording Secretary Betty Schinestuhl, Engineer Gerken and Reporter Arnone.

SALUTE TO THE FLAG

Attorney Hirsch 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.

Chairman Clayton announced the DeFeo application will not be heard tonight. That application will be carried to September 15, 2004.

CARRIED APPLICATIONS

CASE #BA11-2004 – Date application complete: May 10, 2004. Carried from June 16, 2004.

APPLICANT: JOHN & MARGARET WATERS

PROPERTY: 2521 River Road, Block 876, Lot 7, R-30 zone

RELIEF REQUESTED: Bulk

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

Sworn by Reporter Arnone:

John Waters, Owner
J. Anderson, Architect

Entered into evidence:

- A-1 Two photos of existing house after renovations
- A-2 Photos prior to renovations
- A-3 Elevation of house

Mr. Anderson said the applicant will demolish the existing garage as well as the shed. It will be replaced with a 20' X 25' garage and a 20' X 22' attached outdoor area. The driveway will be reconfigured. It will have a Colonial look. The siding will be cedar shingles and brick. The garage will be in a more accessible location. The driveway will go to the side. The driveway is the reason for the impervious area.

Attorney Hirsch asked was the location changed of the house. Mr. Anderson said no.

Attorney Hirsch asked what the height of the garage will be. Mr. Anderson said 20' 6 and 3/8". Attorney Hirsch asked why the extra height for the garage. Mr. Anderson said stylistic. The roof pitch was six on twelve. No space above the garage. We are trying to match the architecture.

Attorney Hirsch asked for the cabana to be described. Mr. Anderson said there is an in-ground pool. The proposed garage would be a single bay and the front will be like a covered porch. There will be a bathroom that will be accessible from the pool.

Attorney Hirsch asked about working utilities. Mr. Anderson said there will be a refrigerator and a gas grille.

Attorney Hirsch said that entire area is open except for the bathroom. Mr. Anderson said that is correct.

Attorney Hirsch asked what the percentage of impervious coverage is. Mr. Anderson said he believes it is 26% where 25% is permitted. Mr. Gerken said in his report he said impervious coverage should be checked and it has been. It is correct. The new building is less. The impervious coverage is because of the driveway. The building coverage went down. Mr. Anderson said they went from a three car garage to a one car garage. Mr. Gray asked if the impervious is because they are going from gravel to paved. Mr. Gerken said it is because there is more driveway. Mr. Gray asked about the height of the trees or are they shrubs. Mr. Waters said they have a grading plan.

Entered into evidence:

A-4 Landscape plan

Mr. Waters said they are 6' – 7' evergreens. We will move the driveway away from the pool. We are attempting to screen the pool from the road and our neighbors.

Mr. Gray asked if the two trees near the garage are going to stay. Mr. Waters said he is not sure.

Mrs. Morrissey asked how far away the neighbors on lot 6 are. Mr. Waters said they are relatively close. It is a pre-existing condition. They sent a letter to the Board endorsing this application.

Attorney Hirsch asked how far your neighbor from the property line is. Mr. Waters said as close as 5'. Attorney Hirsch asked where that house exists in terms of your garage. Does it line up with your garage or house? Mr. Waters said their house is next to our existing garage.

Mr. Slocum asked if the existing three car garage was detached. Mr. Waters said yes. Mr. Slocum said the new garage will be attached. Mr. Waters said it will also be detached. It will be moved further from the house.

Mr. Gerken said the setback from River Road is about 230'. The new garage will be like a rear entry garage. It will not be visible from River Road.

Attorney Hirsch said the lot is 1.36 acres. It is oversized. It is in the R-30 zone.

Chairman Clayton said above the garage there is no sleeping quarters, no living space at all. Mr. Waters said none at all.

The application was open and closed to the public.

Mr. Gray moved to approve the application subject to the existing shed and garage be removed. The applicant shall adhere to the landscape plan A-4 in evidence. Mr. Cinelli also added the condition that there be no living space above the garage. Mrs. Morrissey seconded the motion which was unanimously approved by a roll call vote. (Mr. Gray, Mrs. Morrissey, Messrs. Rembiszewski, Palmer Mrs. DeSarno, Messrs. Cinelli and Clayton voted yes.)

Mr. Cinelli recused himself on the Omnipoint and Sutton application.

Mrs. DeSarno recused herself on the Omnipoint application.

CASE #BA37-2003 – Date application complete: November 21, 2003. Carried from April 7, 2004 and June 2, 2004.

APPLICANT: OMNIPOINT

PROPERTY: 5019 Belmar Boulevard, Block 917.01, Lot 27, GI-2 zone

RELIEF REQUESTED: Conditional Use

Richard D. Stanzione, Esq. appeared for the applicant.

Attorney Stanzione said as he recalls he completed his application. The FAA is not requiring lighting or stripping of the pole. Another issue was the relocation of the monopole in the compound. The Board wanted it moved 30' to the south. The Board also wanted the access drive widened. We will do those things. We have new sketches.

Entered into evidence:

A-10 Site Plan revised date July 15, 2004

Anthony Suppa, previously sworn, said we moved the monopole 30' to the south. Moving the pole leaves the fall zone off Belmar Boulevard and Wyckoff Road.

A-11 Revised plan dated July 15, 2004

Attorney Stanzione said A-11 shows the future locators on the west side of the compound. He also said they had to look at widening the drive to get a fire truck in and back out. We went out

and surveyed the property. We will provide an 18' gravel access. We figured out how much we needed to have a fire truck get around. We need to take out 14 additional trees for a total of 28. We will provide nine plantings. GPU has given us their blessing. The Board asked us to look at this and we have. It does result in additional gravel area and loss of trees. We will submit a letter to DEP regarding wetlands. He said his consultant states there are no wetlands.

Mr. Kerr asked if the approval from FAA was based on the original application. Attorney Stanzione said it is good for both.

Mrs. Morrissey asked if this application is not approved what are the other locations you are looking at. Attorney Stanzione said he would have to go back to the transcripts. Five years ago we were looking at Quail Ridge. It was denied by the Board of Adjustment. There were no existing structures that would meet the needs.

Mr. Palmer, referring the FAA report dated June 15, 2004, asked if a representative from the FAA inspected the site. Attorney Stanzione said he does not know. Mr. Palmer said he does not agree with FAA approving a site next to an airport. He said he thinks there is a potential for a problem in the future. Attorney Hirsch said that is FAA's jurisdiction. Mr. Palmer said according to their letter we do have latitude. We can ask that some type of lighting be put on the structure. Attorney Stanzione said we generally do not. FAA rules. It becomes a marking issue. We let the FAA determine if they want it or not. A light may be confusing to a pilot. Mr. Palmer asked if Attorney Stanzione has had any conversations with Robert P. Alexander. Attorney Stanzione said no. This is a typical FAA report. Mr. Palmer asked if there was any other information. Attorney Stanzione said I can give you the process. You give FAA the information and they come up with if it is in a hazard zone. Mr. Palmer said he really thinks there are concerns with the location of the airport. He said he disagrees with FAA.

Mrs. Morrissey asked for Mr. Gerken's comment on this. Mr. Gerken said FAA makes its decision based on elevations and distances from the access of the run-way. They do not usually make a site visit.

Mr. Slocum said he has personally been on Belmar Boulevard and planes are a lot lower.

Chairman Clayton said the additional parking area for fire truck access does that do anything with lot coverage. Mr. Gerken said no. There is a substantial part of the lot covered. You may want to take a second look at that. I don't know what you are trying to get on that site to protect. It seems like a lot of vegetation coming down for a turn around on the site. Attorney Stanzione said he has no problem with the truck just coming in. Everything is non-combustible. Mr. Gray said Chairman Clayton wanted the driveway widened by 2'. Mr. Gerken said go back to the original driveway and just make it 2' wider. Chairman Clayton asked how deep the driveway is. Attorney Stanzione said 100'. He said if they just widen it a little they will loose maybe four to five trees.

Mr. Palmer said the Board has a report from Wall Township Environmental Advisory Committee. Can you add trees? Attorney Stanzione said we are adding nine trees. Mr. Palmer said can you consider adding more trees. Mr. Slocum said I don't know where you would put them. Attorney Stanzione said as long as we have GPU approval we can add some more. You

can't see the sub-station from the road. Chairman Clayton asked about some plantings along Belmar Boulevard. Attorney Stanzone said they can add some vegetation.

The application was open to the public.

Paul Peaff, 1529 Wyckoff Road, said he lives 500' from this site. He asked about plantings. Attorney Stanzone said the original site plan calls for the removal of 14 trees. We will add nine evergreens.

Pat Smith, 5019 Megill Road, asked if the FAA reviewed the application now that the tower has been moved. Attorney Stanzone said they have latitude of 50'. It does not have to be reviewed. If moved more than 50' they have to review it.

Ms. Smith said the other sites that were considered, you mentioned Quail Ridge as one. Attorney Stanzone said he has to go to Mr. Conroy's testimony. There were no other structures in the area.

Ms. Smith asked why the other sites were rejected. Attorney Stanzone said he didn't know there were other sites rejected. This is a permitted conditional use. Mr. Conroy did name the additional sites we are using at the overlapping sites. On page 49, line 10 of the report it states there are no other existing structures that meet the coverage.

Ed Newberry, 4808 Spring Street, asked when application was made to FAA were they made aware of the banner planes. Attorney Stanzone said he did not know.

Paul Peaff asked if this is an undersized lot. Attorney Hirsch said this is a conditionally permitted use. The applicant would be allowed to put this there if they met all conditions. They don't meet all conditions. We went over the items they do not meet.

Mr. Peaff asked if there were any wetlands. Attorney Hirsch said the Board is requesting a DEP report. The applicant said there are no wetlands. They need to get an LOI.

STATEMENTS

Fred Behringer was sworn. Mr. Behringer said he has lived in the area for over 40 years. He has seen the airport grow. On the weekends there are banner planes. These planes fly right over that area where the tower would be. Sometimes not 130' off the ground. Banners have a tendency to drop down. Sometimes the plane gets in trouble. What if one of those banners get caught on one of those towers. It is not a very good location because of the airport. He said he has never seen a tower that did not have a light flashing. Planes that are coming in would not even know that tower was there.

Ed Newberry was sworn. Mr. Newbury said he was concerned about the banners. The planes would go right over this pole. Banner planes are using the field closest to this lot. There needs to be a little more thought put into this.

Paul Peaff was sworn. Mr. Peaff said he agrees with his neighbors. He urges the Board to deny this. He has lived here for five years. He said every weekend there are 10 planes in the sky at one time. There are various types of planes. This is dangerous without the tower, especially without a light. There is plenty of other land that this could be located on. The safety concerns should be addressed.

Pat Smith was sworn. Ms. Smith said she is opposed to this. There are other options. You have to consider the plane issue. There is an increase in helicopter traffic. They are not high up. If the tower were to come down on that substation there would be drastic problems. There are gas pipes that need to be looked into. You should request the applicant go back to the FAA and mention the issue of the banner planes and helicopters. She said she has concerns regarding health issues with this tower being in a residential area.

Pat Behringer was sworn. Ms. Behringer said her concern is the flashing lights. She said once they put homes in the area those trees that conceal this will come down.

Jane Alwell was sworn. Ms. Alwell said she has been a resident for ten years. She said she has two small children. She has health concerns. They are going to take down 14 trees. The whole area is being destroyed. She said she hopes the Board denies this.

Attorney Stanzione said he has tried to present an application as conforming to the ordinance as possible. We are a permitted conditional use in the zone. If you look at this you will see that this site is the correct place. The setback is less because we have moved the tower so we basically meet that. We only violate the setback to the south and west. The fall zone is on our own property. There is a 130' fall zone. The other violations are diminimous. He said he understands the residents concerns. We have a process that we go through. I think we have to defer to the FAA. They know where these facilities are. If we put a light on the tower a pilot may think he is higher than what he is. That may cause a problem.

Ms. Bergailo asked about the setback. Attorney Hirsch said it has to be setback 130' from all property lines.

Attorney Stanzione said the setback to Belmar Boulevard is 110' and another 25' to the pavement. The rear setback to the east is 190'. To the west it is 121' and another 30' to the pavement.

Ms. Bergailo said with this application they are adding another variance. If they did not move the tower 30' they would only need two variances. Because the Board wanted them to move the tower they need three. That was done at the request of the Board.

Attorney Hirsch said the last condition is the distance from non-residential uses. Based on the new height of the tower 260' is required. Attorney Stanzione said they are still 50' from the substation. Attorney Hirsch asked if that was the only violation. Ms. Bergailo said that is the closest. She said this doesn't make much sense, 260' from the property line. Attorney Hirsch said this is a permitted use. The Board should be looking at it as if the sight is okay despite the failure to meet all conditions. This is still functioning appropriately.

Mrs. Morrissey asked does the safety issue on banner planes come into play. Attorney Hirsch said it is up to the Board to determine if any of the conditions have anything to do with it. If they did meet all setbacks this would have gone to the Planning Board. We are focusing on the fact that they don't meet those requirements.

Mr. Rembiszewski moved to deny the application on safety. Mr. Palmer seconded the motion. (Messrs. Rembiszewski, Palmer, Slocum, Kerr, Mrs. Morrissey, Messrs. Gray and Clayton voted yes.) The application was denied.

Attorney Stanzone asked if the Board retained the exhibits. Attorney Hirsch said yes through the appeal period.

NEW APPLICATION

Case #12-2004 – Date application complete: June 3, 2004

APPLICANT: WILLIAM & HELEN SUTTON

PROPERTY: 522 Shark River Station Road, Block 907, Lot 52, R-60 zone

RELIEF REQUESTED: Bulk variance

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

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

Attorney Middleton said the applicant is requesting permission to construct a garage and extend the driveway. The proposed garage will be 1,890 s.f. The property is located on Shark River Station Road. It is in the northern section of the township. The property encompasses 1.79 acres. It is located in the R-60 zone. One and one half years ago Monmouth County purchased the property to the south and west. 80 – 90 acres is part of the Green Acres program. He is building an oversized garage because he is a collector of old automobiles. He wants to store those cars in his garage. His son currently lives there. He will be moving in.

Attorney Hirsch asked for the height of the garage. Attorney Middleton said 22'. Attorney Hirsch said that would make it a bulk variance. You don't need a use variance for the garage. Attorney Middleton said they need a variance for the height and size of the structure.

Sworn by Reporter Arnone:

William Sutton

Mr. Sutton said he is the applicant and owner of the property. He has owned it since 1968 or 1969. The property has 150' frontage and goes on an angle. The house sits back 50'. The whole back is open. It is heavily wooded. He wants to put the garage in the rear.

Attorney Middleton asked if there were residents on both the east and west sides. Mr. Sutton said yes.

Attorney Middleton said the county purchased the property to the rear. Mr. Sutton said yes.

Entered into evidence:

- A-1 Photos of the property
- A-2 Photos of the rear of the property looking to the front
- A-3 Photos from the rear looking to the front of the property showing all corn fields
- A-4 Tax map showing where the county property is located

Attorney Middleton said you collect cars. Mr. Sutton said yes. Attorney Middleton asked what kind. Mr. Sutton said three different types of Mustangs. Attorney Middleton asked if he had a pick-up. Mr. Sutton said yes. Attorney Middleton said you want to store cars in the garage. Mr. Sutton said yes. Attorney Middleton said is the garage going to be heated. Mr. Sutton said no air conditioning or plumbing. It will be just a plain garage. No heat. He said he may add heat and electric at some point. Attorney Middleton said it will be a steel framed building. Mr. Sutton said yes. The contract manufacturer is Mortons.

Entered into evidence:

- A-5 Elevation of garage

Attorney Middleton asked how far the house on lot 51 will be from the garage. Mr. Sutton said a couple of hundred feet. Attorney Hirsch said 200' from the adjoining home. Attorney Middleton said that is correct. Attorney Middleton asked how far the garage would be from the house on lot 40. Mr. Sutton said 150' – 175'. Attorney Middleton asked about lighting around the garage. Mr. Sutton said maybe some day, not right now.

Mrs. Morrissey asked what Mr. Sutton's occupation was. Mr. Sutton said he is a utility worker.

Mrs. Morrissey asked if business will be conducted from the garage. Mr. Sutton said no.

Mr. Gray asked why so high. Mr. Sutton said the cars that he has he can stack them in layers. Mr. Gray asked why so far from the house. Mr. Sutton said for privacy.

Attorney Hirsch asked about type of equipment used to stack the cars. Mr. Sutton said it is like a lift and you can put another car underneath it. Attorney Hirsch asked if there will be any other type of equipment. Mr. Sutton said maybe a compressor. Maybe a table saw or something.

Attorney Hirsch asked how many cars. Mr. Sutton said it depends on how big his hobby gets. He said he has five or six now.

Attorney Hirsch asked if he will do any body work or mechanics. Mr. Sutton said only for himself.

Attorney Middleton asked if he would move the garage closer to the home if the Board wanted. Mr. Sutton said yes.

Attorney Hirsch asked how many could fit in there. Mr. Sutton said 20 – 25 safely. Attorney Middleton asked if he would agree to a maximum amount of cars if the Board wants. Mr. Sutton said that would be fine. Attorney Middleton said there will be no hydraulic system.

Chairman Clayton asked if there will be a second floor. Mr. Sutton said it will all be open. There will be no second floor or storage area.

Mr. Slocum asked why a pole barn. Mr. Gerken said that is the way they are manufactured. Mr. Slocum asked about the foundation. Mr. Sutton said the poles will go into the ground. Mr. Slocum said no foundation. Mr. Sutton said no.

Mr. Gray said if no hydraulics why the extra height. Mr. Sutton said in case he needs it.

Mr. Slocum asked about the lift. Mr. Sutton said it is just to life the cars. It works off air.

Mr. Gray said he thought he saw a truck with Sutton on it on the site. Mr. Sutton said he was just cleaning off the truck.

Mrs. Morrissey asked where these cars are now. Attorney Middleton said he rents space.

Chairman Clayton asked about painting. Mr. Sutton said he sends them out. He said he just does the body work.

The application was open and closed to the public.

Attorney Middleton said the property is unique. It makes sense to bring the cars inside. There will be no negative impact on the neighbors. There will be no hydraulic system.

Mr. Gray said he has no problem with the hydraulic system. If he wants to do that he wouldn't have a problem with it or how many cars as long as the doors are closed.

Mr. Rembiszewski moved to approve the application. Mrs. Morrissey said the maximum amount of cars that may be stored in the garage is seven. Chairman Clayton said the applicant shall conduct no business from the garage and can only store vehicles that he owns. No painting shall be allowed in the garage. The applicant agrees that he will not construct any other accessory structures on the property. Mr. Kerr seconded the motion, which was unanimously approved by a roll call vote. (Messrs. Rembiszewski, Kerr, Palmer, Mrs. Morrissey, Messrs. Gray, Cinelli and Slocum voted yes.)

MINUTES TO BE ADOPTED: Mr. Gray moved to approve the minutes of the study session and regular minutes of March 30, 2004. Mr. Palmer seconded the motion, which was unanimously approved.

RESOLUTIONS TO BE MEMORIALIZED:

VICTOR AOP, INC. – BA#4-2004
Block 800, Lot 4

Morrissey/Kerr

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JEFFREY & ADELA BEECHER – BA#11-2004
Block 172, Lot 2

Palmer/Rembiszewski

RICHARD & DONNA WILSON –BA#6-2004
Block 831, Lot 6

Morrissey/Rembiszewski

TERRANCE HEGEL – BA#8-2004
Block 338, Lots 42 & 43

Gray/Rembiszewski

CHARLES V. MEHLER, JR. – BA#8-2004
Block 316, Lot 40

Palmer/Morrissey

There being no further business to come before the Board, a motion was made, seconded, and unanimously approved to adjourn the meeting at 10:20 P.M.

Respectfully submitted,

Betty Schinestuhl
Recording Secretary