

**TOWNSHIP OF WALL  
ZONING BOARD OF ADJUSTMENT  
MINUTES OF THE REGULAR MEETING  
HELD IN THE MUNICIPAL MEETING ROOM  
SEPTEMBER 15, 2004**

The Regular Meeting of the Wall Township Board of Adjustment was called to order by Chairman Clayton at 7:45 P.M. Members present were Chairman Michael Clayton, Vice Chairperson Mary DeSarno, Wilma Morrissey, Jim Gray, Wayne Palmer, first alternate Bob Kerr, second alternate Ray Slocum, Attorney Hirsch, Planning Coordinator Roberta Lang, Engineer Gerken, Planner Bergailo and Reporter Arnone.

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.

**SALUTE TO THE FLAG**

Chairman Clayton announced there are five applications on the agenda. Two of them are not going to be heard. The Joe Dubicki application will not be heard because of improper noticing. Attorney Hirsch explained to Mr. Dubicki that the formal notice was okay but the one sent to the paper and to the property owners was not. Chairman Clayton said this application will be carried to October 6, 2004. Attorney Hirsch said no further noticing will be required.

Chairman Clayton said the Defeo application will be carried to November 3, 2004. No further noticing is required.

**NEW APPLICATIONS**

**CASE #BA21-2004** – Date application complete: July 13, 2004

**APPLICANT:** TERRANCE HEGEL

**PROPERTY:** 1213 Tecumseh Place, Block 340, Lot 14, R-10 zone

**RELIEF REQUESTED:** Bulk

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 proposing to build a residence on an undersized lot. The lot is located on Tecumseh Place. It is Block 340, Lot 15. 10,000 s.f. is required and 7,105 s.f. are provided. A variance is needed for lot width and lot frontage. 75' is required and 50' is provided. Mr. Carton is here tonight and he will testify as to the title search. Attorney Middleton said the neighbors were provided with a letter indicating that the property was for sale. A letter was also sent to Wall Township asking if they wanted to sell lot 13 to Mr. Hegel. We have had no response to that letter.

Entered into evidence:

- A-1 Letter to Wall Township asking to purchase lot 13 dated August 10, 2004
- A-2 Letter to the McCain's indicating the property was for sale dated August 14, 2004

Sworn by Reporter Arnone: Andrew Carton

Mr. Carton is a title officer with Trident Abstract. He is one of the main employees in the company that examines titles for title insurance. Mr. Carton said he has been doing this for 19 years. He explained he did a grantee/grantor search back to the developer who conveyed the lots out around the 1930's. In 1933 Manasquan Home conveyed the property to Philip and Mary Jack Qui. The title has not been conveyed since 1933. Mr. Carton stated he also did a search on lot 17. He took that back to the developer also. Lot 17 is currently owned by Paul and Patricia McCain. Manasquan Home Sites purchased this property about 1927. They developed the land. In 1957 there was a final judgment where Wall Township was the plaintiff in an in rem tax foreclosure. They took title from Manasquan Home Sites. Wall Township conveyed title to Herbert and June Cottrell in 1965. The Cottrells sold it to Norbert and Helen Wolfe in 1972. It was then sold to Georgeanna Bryson in 1974. It was then sold to the current owners Paul and Patricia McCain. Lot 13 was conveyed in 1930 to Mary Padel. Ms. Padel lost the property through an in rem tax foreclosure to Wall Township.

Entered into evidence:

- A-3 Copies of searches for lots 17, 15 and 13

Sworn by Reporter Arnone: Terrance Hegel

Mr. Hegel said he is the applicant. Mr. Hegel said he is proposing to build a house on the lot and sell it.

Attorney Middleton said you applied to the DEP and obtained a wetlands permit to fill and a stream encroachment permit. Mr. Hegel said that is correct.

Mr. Hegel said the wetlands permit is general permit number seven. It allows filling of man-made swales. I also have a letter of interpretation delineating the wetlands. Both of these are accompanied by an approved DEP map.

Entered into evidence:

- A-4 LOI dated March 3, 2004 – the permit and map

Mr. Gerken stated he did not have a copy. Attorney Middleton said a copy will be provided to Mr. Gerken.

Attorney Middleton said a stream encroachment permit was also obtained. Mr. Hegel said that permit was issued December 17, 2003. It also includes a map.

Entered into evidence:

A-5 Stream encroachment permit dated December 17, 2003 with map

Mr. Hegel said he is proposing a two-story, 2,600 gross s.f. about 1,300 s.f. footprint. It will have four bedrooms and two and a half baths. It will occupy 19.3% of the lot.

Entered into evidence:

A-6 Four elevations

Mr. Hegel said the proposed house will be a traditional Colonial. It is narrow. It is about 27½' wide. He said he built the same house in a couple different places. He said he lives in one on Summit Road. The length of the house is 48'. It is two-stories. It has an attached garage. It will also have a covered porch. The height of the house is about 33'. The side yard setbacks will be 10' on each side.

Mr. Hegel said the proposed house will fit nicely in the neighborhood. It is scaled properly for the lot size. It is scaled properly for the neighborhood. Mr. Hegel said on Tecumseh between Unamis and Algonkin there are six one-story houses, two one and a half story houses, three two-story houses and one two and a half story house. Around the corner there is a small sub-division of six to eight new homes which are much larger.

Attorney Middleton said in terms of impervious coverage you are providing 25.6% where 40% is permitted. Mr. Hegel said that is correct.

Mr. Rembiszewski arrived.

Mr. Hegel said the lot is 50' in frontage, 140' deep for a total of 7100 s.f.

Attorney Middleton asked how many feet from the rear yard is the house going to be located. Mr. Hegel said about 58' – 60'.

Attorney Middleton asked about front yard setback. Mr. Hegel said it is 32' where 30 is required.

Attorney Middleton said one of the adjoining lots is owned by the Township. Mr. Hegel said that is correct. It is vacant. Mr. Hegel explained the lot contains an 18' concrete drainage pipe running through one side of it. It is a lot that is pretty overgrown.

Attorney Middleton said the lot on the other side is owned by the McCain's. Mr. Hegel said that is correct. There is a residence on that lot.

Mrs. Morrissey asked how many speculation homes have you built. Mr. Hegel said three in Wall Township.

Mrs. Morrissey asked Mr. Hegel to address number one and number five in Mr. Gerken's review letter. Did you say you have the LOI or you are waiting for it? Mr. Hegel said he has it. Mr. Hegel, referring to Mr. Gerken's letter, said he has received the stream encroachment permit. He said number six he would defer to the engineer. Mr. Gerken said Attorney Middleton just handed him a copy of the stream encroachment permit which was issued for construction along the 100 year flood plain. The map showed the 39' back from the rear property line was the extent of the hundred year flood plain. That was issued December 17, 2003. On March 3, 2004 there were two permits issued, one was a LOI and one for a general permit seven and a water quality certificate in transition waiver.

Chairman Clayton asked if there was any structure within the flood plain. Mr. Gerken said no.

Mrs. Morrissey asked if there is a problem with drainage. Mr. Gerken said we are going to hear testimony from Mr. Carpenter.

Mr. Slocum asked if Mr. Hegel was still interested in the Township property that would change the concept of this entire issue. Mr. Hegel said the issue with the town owning the lot is that it contains an 18" storm drain very near the property line. If they were willing to sell that it doesn't allow me to do anything different than what I am proposing.

Mr. Gray asked if he offered to buy the lot. Attorney Middleton said yes. Mr. Gray asked if he had a copy of that letter. Attorney Hirsch said he has a copy of that letter.

Mr. Gray said the house will be 32' off the property line. Mr. Hegel said 32' front setback. Mr. Gray asked how far the home will be from the street. Attorney Middleton said it shows on the map, 32' at the closest section. Mr. Hegel said there's probably 10' from the property corner to the street. Attorney Middleton said 42' from the edge of pavement.

Mr. Gray asked how far the McCain property from the street is. Attorney Middleton said maybe 2' - 3' further back than we are.

Mr. Kerr asked what type of foundation is being planned. Mr. Hegel said it is going to be a crawl space.

Mr. Kerr said there are several mature trees on the property. Will you attempt to save as many as possible? Mr. Hegel said yes. He said he will make every effort to save as many trees as he can.

Mr. Cinelli arrived.

Mr. Gerken said due to the grading there are very few trees that will be saved until you get to the last 35' 40' of the property. Mr. Kerr said the back end. Mr. Gerken said yes.

Chairman Clayton asked about comparing the square footage of the proposed home to other homes in the neighborhood. Attorney Middleton said Mr. Thomas has an aerial with tax maps. He'll go through that.

Mr. Hegel said there are larger houses on the street and there are some ranches on the street. The ranches that are there are large. They are upwards 1500 – 1800 s.f. There are a number of two story homes. They are larger than the proposed home. The house is going to be situated so the roof will not slope to the neighbor. It is called a gabled end plan. It will slope to the left and right property lines.

Mrs. Morrissey asked if the utilities are existing. Mr. Hegel said there's power across the front of the property. There is no gas service or water or sewer service at the property right now. They would have to be installed.

Mrs. Morrissey asked about the siding. Mr. Hegel said it will be vinyl siding with a hard wood deck on the front and a little rail. Up the gable ends he will put cedar impression shingles. Mr. Hegel said he puts a lot of attention towards what the front of the house looks like. He always landscapes it.

Mrs. Morrissey said the woods in the back will remain. Mr. Hegel said yes.

Chairman Clayton said the homes across the street; their setbacks are typical with the 32' setback you are proposing? Attorney Middleton said they are closer. Mr. Hegel said there are new houses on the opposite side of the street that probably conform. Directly across those do look a little closer. To the left of that house the house sits back a little further. To the left of the township lot that conforms to the setbacks.

Rita Dousset, 1205 Tecumseh Place, said she has a few questions. She said she is concerned about the run-off and the wetlands. She said she has flooding after a heavy rain. Ms. Dousset asked how is this going to affect her property when it rains. She said her house was built 13 years ago not 8. Chairman Clayton said an engineer is going to testify.

Ms. Dousset asked if the DEP permits supposed to be on file at the Municipal building. Attorney Hirsch said they have just given us the permits tonight. He said they are sent to the Wall Township Clerk and to the Wall Township Construction Department by the DEP.

Ray Carpenter, Engineer, was sworn.

Mr. Carpenter gave his credentials which were accepted by the Board.

Mr. Carpenter said there is a frontage of 50' and 144' deep. The back is bounded by Roberts Brook and Tecumseh Place in the front. The property to the right is lot 17. It is developed. The property to the left is lot 13 which is undeveloped. There is a swale running down the middle of the property. It is a man-made swale. This lot has hills and a definite swale.

Attorney Middleton asked if the lot was wooded. Mr. Carpenter said yes. The lot slopes from Tecumseh down to Roberts Brook. The lot appears to range from 25' at Tecumseh all the way down to 22' towards the brook. There is a drop of about 3'. The property is significantly lower than the property to the right, lot 17. Lot 17 pitches towards the subject property. The subject property is a little lower than the two adjoining lots.

Attorney Middleton said water seeks its lower point. Mr. Carpenter said that is correct. Attorney Middleton said the water from either lot seems to be directed toward the subject lot. Mr. Carpenter said that is correct.

Attorney Middleton said you are proposing a grading plan. Mr. Carpenter said yes. Attorney Middleton said the grading plan would involve filling part of the lot in. Mr. Carpenter said that is correct.

Mr. Carpenter explained the DEP permit allows you to fill in general the wetlands. It is a minimal amount of fill. The stream encroachment permit allows you to fill 20% by volume of the flood volume contained on the lot. Mr. Carpenter explained we are allowed to fill 20% in the flood way which is contained on this lot. We had to do specific and detailed calculations for the DEP.

Mr. Carpenter explained the dwelling will be in the center of the lot. We've constructed swales on either side of the lot to convey the water through the lot to the rear of the lot. We are raising the lot up primarily in the front. We are raising the lot up in the front about 2½'– 3'. Where the house is we are raising it about 1'. The rear will remain the same.

Attorney Middleton said Ms. McCain raised the issue of how this would impact the neighbor's drainage. Mr. Carpenter explained what a swale is. It is a graded ditch. It directs the flow of water in a specific direction. It is going to be grassed. It is not going to be open dirt. It will be a gradual slope. The swale will contain the water and send it to Roberts Brook.

Mr. Carpenter said the driveway is designed to drain toward Tecumseh. The front yard on both the right and left will drain to the rear of the property. This will have no impact on the surrounding properties. There will be no increase of run-off to either neighbor.

Mrs. Morrissey asked if there will be any impact to Roberts Brook itself. Mr. Carpenter said DEP takes that into account. They have done a study of Roberts Brook. The development of this lot has already been taken into account by the DEP when they issued the stream encroachment permit.

Mr. Kerr said as it stands the water run-off of lot 17 and from Tecumseh flows on to this particular lot. Mr. Carpenter said correct. Mr. Kerr asked how is that going to work if it flows on to the lot now. Mr. Carpenter said the driveway will drain towards Tecumseh. There is a catch basin next to the driveway which would pick up the driveway water.

Mr. Gray said now rain falls on the property and goes to the back of the property. Mr. Carpenter said correct. Mr. Gray said you are going to be creating a little hill. Mr. Carpenter said basically a mound in the middle of the property. Mr. Gerken said he has the map that was approved by DEP. He suggested putting that on the board for all members to see. Attorney Hirsch said you are referring to a map that is part of A-5. Mr. Carpenter said correct. He said there is a note on the plan called flood way line. That line was established by the DEP through their studies of Roberts Brook as being the limit of the hundred year flood. We are not proposing any development or disturbance beyond that area. We are proposing a swale on the westerly and easterly side.

Chairman Clayton said the first third of the property seems to be full. Mr. Carpenter said it is less than 30%. It is about 20% by volume.

Chairman Clayton said from the rear of the house you're not touching anything back to the stream. Mr. Carpenter said no. Chairman Clayton said the DEP does not allow any type of clearing, is that correct? Mr. Carpenter said as far as the stream encroachment permit they do allow it. As far as the wetlands permit they don't allow it. The wetlands permit did not include a transition area. We can basically go back and clear to the stream. You cannot construct any structures in that area. Chairman Clayton said to make it a condition that no structures are permitted in that area. Attorney Middleton agreed.

Mrs. Morrissey asked do you know for sure that Roberts Brook is not classified C-1 waters. Mr. Carpenter said it is not a C-1.

Mr. Gerken said beyond the house, with the exception of the swales, there is no grading or filling being done. There are certain vents in the rear part of the foundation, so if water ever did get up that high it would be allowed to flow underneath the crawl space.

JeanJacques Dousset said when you inspected the property did you hear the constant stream of water from the vis-à-vis property which used to be a swale and was actually filled. The neighbor on the other side has a pump going. Mr. Carpenter said he did hear water. That is not unusual to have water flowing in a drainage pipe when it is getting close to the point of discharge.

Mr. Dousset asked were you able to quantify this amount of flowing from the neighborhood into the dirt and how much when it's dry is actually in that old swale. Mr. Carpenter said it has been an extremely wet year. The pipe has been flowing at some level throughout the entire year. If there is any groundwater it seeps into the pipe. There is probably a half inch of water flowing through the pipe.

Mr. Dousset said when you are talking about the pipe you are talking about the sewer that is on the lot owned by the Township. Mr. Carpenter said he is talking about the pipe that crosses Tecumseh and goes across the front of the property. Mr. Carpenter said the pipe he is referring to is at the bottom of the page and is labeled 18" RCP. It is on the northerly side of Tecumseh. It crosses Tecumseh to a catch basin in front of the lot. It is picked up by an 18" pipe. It goes over to the easterly side of the lot. It then travels down along the property line of lot 17 to Roberts Brook.

Mr. Gerken said it is very common in areas like this. The Township a lot of times put in what they call under drains which are perforated pipes in stone or sand. That is to pick up the ground water. When you hear water flowing through the pipes during the dry seas, that's probably the ground water 3' - 4' down in the ground which keeps the roadway sub-base dry.

Paul McCain said he is the lot to the right. Mr. McCain asked in extreme rain what environmental impact on Tecumseh and Pine Street will this affect. Mr. Carpenter said the DEP has determined that there will be no adverse environmental impact.

Mr. McCain asked if flooding is considered an environmental impact. Mr. Carpenter said absolutely.

Rita Dousset said the run-off goes on to Tecumseh and back to Roberts Creek. Mr. Carpenter said no. The driveway is pitched toward Tecumseh. There will be some water from the driveway that goes out to Tecumseh. It is going to be picked up by the catch basin right at the corner of the driveway

Mrs. Dousset said you don't think the brook is ever going to overflow or it is not going to impact the property adjacent. Mr. Carpenter said there is not going to be any adverse impact to the stream. Mrs. Dousset said it has already happened without a building being there. Is there a retaining wall along the side? Mr. Carpenter said we put the retaining wall along lot 13. Mrs. Dousset asked if that has any direct affect on the run-off and where the run-off ends up. Mr. Carpenter said it is containing the run-off on this site. Mrs. Dousset said it seems like there is going to be an awful lot of water to run-off in a heavy rain. She said she has seen the street flooded. She said her backyard has been flowed in a heavy rain.

Attorney Middleton asked Mr. Carpenter if he believes that this house would have a negative impact in terms of run-off on Roberts Brook. Mr. Carpenter said absolutely not.

Attorney Middleton said this neighborhood is fully developed with homes. Mr. Carpenter said that is correct. Attorney Middleton said this is just one more home. Mr. Carpenter said that is correct.

Attorney Hirsch asked if any more water was going into Roberts Brook after construction as compared to before. Mr. Carpenter said a slight amount.

Mrs. Dousset said when you clear the trees and plant grass you are really going to have a flow of water. Mr. Carpenter said if you use a sodded lawn the water absorption is almost the same as a treed lot.

Mr. Gerken said this lot will flood during a hundred year storm. During the hundred year flood line the whole area adjacent to the house in the back and even underneath the house will flood with it. That is all part of the hundred year flood plain.

Patricia McCain, lot 17. Mrs. McCain asked how much run-off is going to affect her property if you only have 20% filled. That is a big ditch and that water's got to go somewhere. Mr. Carpenter said we created a swale along the proposed house that is going to be about 1' deep and 10' wide. It will pick up all the run-off that flowed from your property on to the site and convey it to Roberts Brook. There will be no adverse impact on Mrs. McCain's property.

Mrs. McCain said as you go back to the end of the property there is not going to be any fill. There is a couple of feet drop. You can't grow anything back there. It is soggy. Your feet sink down. That water has to go somewhere. Mr. Carpenter said the natural grade of the property directs the water towards Roberts Brook. Attorney Middleton said all the water from Mrs. McCain's property will go towards that area and all the water from the subject property. Your home will not get flowed.

Mrs. McCain said she has flood insurance. She has been flooded several times. The water from Roberts Creek comes back 10' to the back of my house.

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

Mr. Thomas said he prepared an aerial photograph. It is dated 2000. It shows the individual property. It also shows the Township owned property. These are aeriels from the NJDEP.

Entered into evidence:

A-7 Aerial of proposed property

Mr. Thomas said he went out and looked at the site. It is located at the lower point of Tecumseh Place. There is an inlet adjacent right at the end of the property. There is an 18' drain pipe that extends from Tecumseh Place over to Roberts Brook. The property contains 7,105 s.f. It is located in the R-10 zone. The site is vacant. It is wooded. It is overgrown. There are some mature trees on site. This area was laid out in 1927. The original maps provided for 25' wide lots. The site is bounded on the west by single family homes. That lot is 13,500 s.f. It has an average depth of 135'. The property to the east is the Township owned property. That is used for drainage purposes. There is a mixture of older homes, renovated homes and new homes in the area. The lot sizes in the Manasquan Shores neighborhood vary from 5,000 s.f. to 50,000 s.f.

Mr. Thomas said he prepared the aerial which shows the structures that were in existence in the year 2000. There are a number of lots which are undersized. This lot is not going to be much different than many of the other lots that exist. A minimum of four lots is needed to meet the basic requirements.

Mr. Thomas explained this is before the Board of Adjustment because of the size of the lot and the width of the lot. The minimum lot requirement is 10,000 s.f. The proposed lot is 7,105 s.f. The minimum lot frontage and width is 75' required. The proposed is 50'. The property does meet the minimum lot depth. It will meet the maximum lot coverage. It also meets the maximum lot coverage in terms of impervious coverage. It meets the minimum front yard depth, side yard requirements and rear yard requirement. The maximum height permitted is 35'. The proposed building will be 33'.

Mr. Thomas said to warrant relief from variances requested the applicant must do two things. He must show that the development of this site does not adversely impact the zoning scheme of the Township. It will not adversely impact the immediate neighborhood. Mr. Thomas said this is an unusual situation in that the adjacent property is owned by the Township. If Mr. Hegel can work out an agreement with the Township in terms of either acquiring or having right of entry on to that property for cleaning up it will look like a 100' wide lot. The house would have to be located on the westerly side of the property. If Mr. Hegel does not want to acquire the property perhaps they will grant an easement for maintaining the property so that it will enhance the neighborhood. Right now it is overgrown. There is a lot of junk thrown there.

Mr. Thomas said the property will be developed so that all of the bulk requirements; front yard, side yard, rear yard, building height and so on will conform with the ordinance. The development of this property will not adversely affect the R-7.5 zone.

Mr. Thomas said the negative criteria is if this is approved would it adversely affect the development of the Master Plan or the Zoning Regulations. It is not going to impact either of those whatsoever.

Mr. Thomas said this proposed use is compatible to the other uses in the neighborhood. It is a single family home. It is consistent to scale and the type of development which is being proposed.

Chairman Clayton said, looking at A-7, there are at least 40 other lots within the yellow area which are nonconforming. Mr. Thomas said that is correct.

Mr. McCain asked how many homes have 50' frontage. Mr. Thomas said on Tecumseh on the south side the only ones are lots 15 and 13. Mr. McCain's property has about 100' frontage. The property to the west is about 150' and the one to the west of that is also 150'. Going east lots 9 and 11 have 100' frontage. Mr. McCain said most of the properties on this block are 100' frontage. Mr. Thomas said there are homes on the north side that have 50' frontage.

Gay Wittenburg, 1204 Tecumseh Place, said she lives uphill. She is not affected by Roberts Creek. With every addition Roberts Creek has been affected. The storm drain in front of the property is always overflowing. Attorney Hirsch said this is a time for questions.

The application was open to the public.

Gay Wittenburg, 1204 Tecumseh, was sworn. Ms. Wittenburg said when Route 35 and Manito Road were developed everything comes down Roberts Creek. There is a problem with the drain on that side of the road. There is also a problem with Algonkin where Roberts Creek goes across. There is also a problem down on Pine side. She said she agrees with her neighbors it has got to affect Roberts Brook in some way.

Paul McCain, 1215 Tecumseh, was sworn. Mr. McCain said a 50' lot is not paying their share of taxes. You are adding cars to the traffic. You are putting impact in the school system. You are asking us to subsidize the lot as far as taxes.

Rita Dousset, 1205 Tecumseh Place, was sworn. Ms. Dousset said she is worried about the water. She said she is also concerned about the knocking down of all the trees. A lot of trees were knocked down to make room for seven houses. Now you're talking about clearing the lot for a house and then clearing the lot next to it. There are bird sanctuaries there. Animals live there. It's natural. It is a natural habitat for birds. It is a natural barrier for the neighborhood. It is nice in the spring, summer and fall. It seems unfortunate to disrupt Roberts Creek. She said she is concerned that she is going to have damage on her property because of flooding.

Attorney Middleton asked if she obtained a wetlands permit or stream encroachment permit. Ms. Dousset said no, she did not build the house.

JeanJacques Dousset, 1205 Tecumseh Place, was sworn. Mr. Dousset said he has a big concern because there seems to be a lot of variances asked for by DEP. There are also the variances that are going to be built on the next street, Minnehaha, which is half the size of a regular lot. There are variances needed for a hotel being built in Shore Park. He said little by little you are changing the look of what is there. He said you are changing the importance of the trees, the wildlife.

The application was closed to the public.

Attorney Middleton said each case that comes before the Board stands on its own. The undersized vacant lot cases are unusual because essentially the proofs are if the applicant is unable to sell the property to an adjoining neighbor. That would make it a hardship. The proposal meets all the bulk requirements under the ordinance. It meets the building coverage. It meets impervious coverage. It meets setbacks. The only variances are those that are associated with the property itself, width, frontage and area. The proposed house is modest. It fits in with the neighborhood.

Mr. Palmer moved to approve the application as applied for. Mr. Kerr seconded the motion. Mr. Kerr said he would like to add the condition that for that space that was identified at the rear of the property that nothing be constructed in that particular area. Mr. Gerken said they have to conform to the grading as DEP. The application was approved by a roll call vote. (Messrs. Palmer, Kerr, Slocum Clayton voted yes. Mr. Gray voted no stating if the applicant were to buy the Township property they would not even be here because it would have enough frontage and square footage. Mrs. Morrissey voted no stating she thinks it is an environmentally sensitive undersized lot that does have an impact on Roberts Swamp Brook as well as the neighborhood.) The application was approved.

9:35 P.M. The Board recessed.

9:50 P.M. The meeting resumed.

**CASE #BA23-2004** – Date application complete: July 26, 2004

**APPLICANT:** LAWRENCE J. LEMING

**PROPERTY:** 2409 Beech Street, Block 853, Lot 29.01, R-10 zone

**RELIEF REQUESTED:** Bulk

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

Sworn by Reporter Arnone:

Lawrence Leming  
Tina Leming  
Richard Grasso

Entered into evidence:

- A-1 Photo
- A-2 Photo
- A-3 Photo
- A-4 Photo

Mr. Gray said before we begin I just want to state for the record that I talked with our attorney about this and he seemed to be okay with it. For about six or seven years I was involved in an investment club with Tina Leming. It has been over four or five years but I just want to make sure it was on the record. Mr. Grasso was also the architect for my recent addition. I have no conflict with anything.

Attorney Hirsch said he does not see any legal impediment. As long as the Board member's are comfortable I don't see that connection is close enough to require a recusal. Mr. Leming said he had no problem.

Entered into evidence:

- A-5 Architectural Plans

Mr. Grasso said the applicant is here for variances having to do with impervious coverage and building coverage. He asked Mr. Leming how long ago it was that he purchased the adjacent property and merged the two. Mr. Leming said maybe four years ago.

Mr. Grasso said over the last four years the applicant has acquired a piece of property from an adjacent property owner. Mrs. Leming will give testimony regarding why the one-story first floor bedroom is going to be added. Mr. Leming's desires to have the two car garage remain. To do this they needed to expand the house by 25' X 36'. We've extended the exact same roof line of the house as you can see in some of the photos. The front of the house has a partial front porch. The applicant would like to continue it all the way across the whole entire front of the house and put a chase transition cable above the garage to create space above the garage that will be used for storage. We tried to turn the house into a more traditional look.

Mr. Grasso explained the one car garage will become a bedroom for Mrs. Leming's mother. The reason for the increase and over covering the lot is to create the two car garage. If we conformed to the 22% coverage we would lose 4' – 5' off the entire width of the addition.

Mr. Leming, referring to Mr. Gerken's letter of September 10, 2004, said number 1, refers to the existing pool. That pool is 5' off the property on my survey. Attorney Hirsch said that has been corrected.

Mr. Leming said both dwellings on either side are 15' from my property line. The pitch grade elevation is staying the same. We are not changing anything that is there now. We are just extending. We are not going to disturb any land or any drainage.

Mr. Leming said all services in the house were upgraded. The electric has been upgraded to a 200 amp service. The gas was redone in 1997. The only thing we will be doing is adding hot

water heat, baseboard. The water meter is to size. Mr. Gerken said there will be no additional excavation in the street for any new services being brought in. Mr. Leming said that is correct.

Chairman Clayton said there is no need to dig up the street. Mr. Leming said no.

Mr. Leming said he has landscaped the property numerous times to fit and to change to the times. We will be taking down no trees. We will be taking up the paver driveway. That will be replaced with sod.

Chairman Clayton asked how far the house on lot 32 sits off the street. Mr. Leming said he is about 19' off the street. He is a little closer to the street than I am. Chairman Clayton asked about the house on lot 26. Mr. Leming said he is about the same as lot 32.

Mr. Slocum asked if the front was 100'. Mr. Leming said yes. Mr. Slocum said it shows 75'. Mr. Grasso said he has the subdivision plot. It was done by Tom Stuart.

Entered into evidence:

A-6 Subdivision Plot

Mr. Grasso said it shows the adding of 25' from the adjacent property which is now new lot 32.01.

Mrs. Morrissey asked if they will be removing the side door. Mr. Leming said yes. Mrs. Morrissey asked if they will be leaving up the fence. Mr. Leming said yes.

Mrs. Morrissey said there won't be much impact to your neighbor because the side that you are adding on to has the garage so you will not be bedroom to bedroom, you will be bedroom to garage. Mr. Leming said correct.

Mrs. Morrissey said the house was very nicely landscaped.

Mr. Gray asked how the subdivision occurred. Mr. Leming said he bought 25' from Mr. Schaffer. He said he went from a 75' lot to 100' lot. We made it three conforming lots in the neighborhood.

Mr. Grasso said this will be pretty much an improvement to the neighborhood. The applicants have upgraded a lot of things.

Chairman Clayton asked if the house on lot 32 was one-story or two. Mr. Leming said two-story. Chairman Clayton asked if the house on lot 26 was one-story or two. Mr. Leming said two-story. Mr. Leming said all but two houses on my street are two-story.

Mrs. Morrissey asked where the DPW truck is now will that still be there. Mr. Leming said he wants to get his two new vehicles into the garage. He said his DPW truck he has to take home in case of emergency.

Mrs. Leming said she just wants to say she loves the neighborhood. We want to improve it. She said they really need the bedroom for her mother who is sick.

Mr. Gerken said the pool issue is not a variance. The bay window, they allow projections up to 2'. The only two variances are the building coverage and the impervious coverage which is just slightly above that which is required by the ordinance.

The application was open to the public.

Eric Olsen, 1614 Holly Boulevard, was sworn. Mr. Olsen said he has lived next to Mr. & Mrs. Leming for four years. They are probably the best neighbors. Throughout this process they have kept the neighbors abreast of everything that is going on. They do need to increase their storage space. He said he is in favor of this. The plans would be a great improvement to the neighborhood, our street.

George Schaffer, was sworn. He said he lives on the other side of Mr. Leming. This will enhance the neighborhood. The neighbors all pull together.

Mrs. Morrissey moved to approve the application as applied for. Mr. Rembiszewski seconded the motion, which was unanimously approved by a roll call vote. (Mrs. Morrissey, Messrs Rembiszewski, Cinelli, Gray, Palmer, Kerr and Mr. Clayton voted yes.)

**CASE #BA-22-2004:** Date application complete: July 26, 2004

**APPLICANT:** RICH OXLEY

**PROPERTY:** 1029 Third Avenue, Block 41, Lot 2, R-7.5 zone

**RELIEF REQUESTED:** Bulk

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

Sworn by Reporter Arnone: Richard Oxley

Mr. Oxley explained he started construction back in January. He put on an addition. When he put up the addition he went across the front of his garage. He has no access to his garage. He is asking to change the driveway from the front to the backside of the house. He would like to put on a porch where there is a broken and badly shaped front porch now. It needs to be repaired desperately. He would like a bigger porch. He said he is proposing a building coverage of 27% where 25% is allowed. The impervious is underneath the required. He said he has made a lot of improvements to the house. He would like to continue. He has a building permit. When he bought the house it was in very bad shape.

Chairman Clayton asked for the survey. Mr. Oxley said everything has been submitted.

Entered into evidence:

A-1 Construction plans and survey

Chairman Clayton asked if the addition being proposed is going toward the east. Mr. Oxley said no. It would be joining the south end of the house so it would be going north.

Chairman Clayton asked about the deck. Mr. Oxley said he was told the deck requires no variance. Mr. Gerken said the deck is part of the whole package. He meets building coverage.

Chairman Clayton said the deck is going to the rear or to the south end of the property. Mr. Oxley said yes. Mr. Gerken said the deck is 8' X 14'.

Chairman Clayton asked where the driveway is now. Mr. Oxley said the driveway is in the front of the house. Chairman Clayton asked if that was going to be removed. Mr. Oxley said he does not want to remove that. Attorney Hirsh asked if he was changing the location of the driveway. Mr. Oxley explained he wrote it that way because the driveway used to be going directly through the addition. It is now a small driveway, big enough for one car. Mr. Gerken said that is okay. Mr. Gerken said the driveway access was severed off when that addition was put on. Attorney Hirsch asked how he gets to the garage now. Mr. Gerken said the new driveway is on People Street.

Chairman Clayton, to Mr. Gerken, said the existing dirt driveway in the front going to Third Avenue wouldn't have any bearing on impervious coverage. Mr. Gerken said he does not have a problem with impervious coverage. It's only building coverage.

Attorney Hirsch said that is now an attached garage. Mr. Oxley said he would like to attach it. Attorney Hirsch said that is what this application is for. Mr. Oxley said yes. Attorney Hirsch said it will still violate the requirement as it was only 5' as a detached garage, now it is going to have a greater setback once it's attached. The front setback on Third Avenue is 16'. That is also existing. Mr. Oxley said that is the proposed new covered porch. Mr. Gerken said right now it is 22'. He is going to put a 6' X 12' porch on front, so that will bring you down to 16'.

Chairman Clayton asked if that porch will be open. Mr. Oxley said yes. Chairman Clayton said no screens or windows. Mr. Oxley said no.

Attorney Hirsch said we have maximum lot coverage which is 27% and 25% is permitted. We have the driveway which has only a 2' setback. Is that in yet? Mr. Oxley said no. That's proposed.

Chairman Clayton asked how wide the driveway is. Mr. Oxley said about 12'. Mr. Gerken said 12' is fine.

Attorney Hirsch asked what is on lot 3. Mr. Oxley said a house that was just recently built. He said he is 27' from that house with his garage. Attorney Hirsch said that house faces People Street. Mr. Oxley said no, it faces Second Avenue.

Chairman Clayton asked about the house on lot 1. Mr. Oxley said he is more than 64' away from that house. Chairman Clayton asked how close that house is to the street. Mr. Oxley said pretty much the same as his. The proposed porch would be out further.

Chairman Clayton asked if there were any other houses in the neighborhood that were closer to the street. Mr. Oxley said yes. He has pictures of other houses. Two houses directly in front of my house are less than 25'. One is about 6'. The other is about 10'. The house directly behind me is about 22'. What I am proposing is very consistent with the neighborhood.

Entered into evidence:

- A-2 Photo of neighborhood showing setbacks
- A-3 Photo of neighborhood showing setbacks
- A-4 Photo of neighborhood showing setbacks

Mrs. Morrissey said where the existing addition is you have a lot of room on that side. On People Street there seems to be an awful lot. Do you own lot 2 and lot 38? Mr. Oxley said he owns lot 1 and 2. Mrs. Morrissey said so where I think it's too close it's not because you own that property. Mr. Oxley said correct.

Mrs. Morrissey asked if the big tree is going to be staying. Mr. Oxley said yes.

Mrs. Morrissey asked what kind of landscaping you are proposing. Mr. Oxley said there is very little yard. I would plant sod. Mrs. Morrissey asked about the side where the existing addition is. Mr. Oxley said that has already been seeded. I won't be adding anything.

Chairman Clayton asked how high the deck will be off the ground. Mr. Oxley said the front is going to be 14" off the off the ground and the rear will be 28' off the ground. Chairman Clayton asked if the rear deck will have a railing around it. Mr. Oxley said yes.

The application was open to the public.

Linda Smith, 1024 Third Avenue, was sworn. Ms. Smith said what he has done with that house is wonderful. Let him keep on doing it.

Alice Meehan, 1026 Second Avenue, was sworn. Ms. Meehan said she expected that there was going to be a driveway type situation there. He has made this a beautiful new house. You have a detached garage which looks much like the old house and it doesn't match. She would love to see that attached so it looks like a completed plan. The area is changing but there are some problems. I think that all of us would be better suited if he could do what he wants to do and have a porch like everybody else. He keeps up his property and I am definitely in favor of this application.

The application was closed to the public.

Chairman Clayton asked if there is anything proposed to be planted in that 2' space from the driveway to the side of the deck. Mr. Oxley said he spoke with his neighbor and he said they

decided that we would generally fill that in with cement and make it nice. We would make a straight line showing that there would be a definite division and property line. Mr. Gerken said then you would have a 0 setback. Mr. Oxley said they don't have to do it. Mr. Gerken said you're better off not doing that.

Ms. Meehan said because his land is a little bit up that would make it grade level with our driveway. She said she thinks it would give some kind of uniform look. She said you can't grow grass there. Chairman Clayton said the survey does not reflect that. It just shows a 2' strip between. Now you're saying you want to fill that in. Attorney Hirsch said if the Board doesn't feel that's a substantial amendment to the application you want to grant a variance instead of 2', 1' or 0'. Mr. Oxley said he could put in some decorative stone. Attorney Hirsch decorative stone might be deemed landscaping and not part of the driveway. Mr. Gerken said that is true. It would be landscaping. Mr. Gerken said putting in decorative stone would be fine. Chairman Clayton said we will stick with the decorative stone.

Mr. Gray moved to approve the application subject to decorative stone being placed between the houses. Mr. Rembiszewski seconded the motion, which was unanimously approved by a roll call vote. (Messrs. Gray, Rembiszewski, Cinelli, Mrs. Morrissey, Messrs. Palmer, Kerr and Mr. Clayton voted yes.)

**RESOLUTION TO BE MEMORIALIZED:**

ROBERT & BETH HUNT – #BA16-2004  
Block 854, Lot 17

Gray/Kerr

There being no further business to come before the Board, a motion was made, seconded, and unanimously approved to adjourn the meeting at 10:45 P.M.

Respectfully submitted,

Betty Schinestuhl  
Recording Secretary