

**TOWNSHIP OF WALL  
ZONING BOARD OF ADJUSTMENT  
MINUTES OF THE REGULAR MEETING  
HELD IN THE MUNICIPAL MEETING ROOM  
MARCH 4, 2009**

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 Morrissey, Jim Gray, Ray Slocum, Robert Morris, first alternate Mary-ellen Draper, Attorney Cramer, Planning Coordinator Roberta Lang, Recording Secretary Betty Schinestuhl, Engineer Gerken and Reporter Arnone. Chairwoman DeSarno, Messrs. Bloom and Orender 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.

Mrs. Morrissey said the McCarthy application will be carried to April 15, 2009. Ochse had a noticing problem and will be carried to March 18, 2009.

**NEW APPLICATION**

**#BOA1-2009** – Date application complete: January 8, 2009

**APPLICANT:** JOHN KUCHINSKI

**PROPERTY:** 1620 N. Marconi Road, Block 87, Lots 4 & 4.01, R-15 zone

**RELIEF REQUESTED:** Bulk

Attorney Cramer 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 a pool to be built in the rear yard. The pool is located within 50' of the mean high water. The house is on N. Marconi Road. The pool cannot be placed in the front yard. This was perfectly selected. No NJDEP approval is required because it is an above-ground pool. There will be no impacts. The applicant is eliminating 400 s.f. of impervious coverage. One variance is required.

Sworn by Reporter Arnone:

Brian Leff  
John Kuchinski  
Glenn Gerken

Entered into evidence:

A-1      Jurisdictional Items  
A-2      Plans prepared by KZA Engineering

BOA-1 Engineering plan review prepared by Glenn Gerken dated January 28, 2009

BOA-2 Planning review prepared by John Hoffmann dated February 6, 2009

Brian Leff gave his credentials which were accepted by the Board.

Mr. Leff, using A-2 which is a mounted version of sheet two of two, showed the property and location of the pool. The site is .6 acres. It is a little over one half acre. It is located on the east side of North Marconi Road. It is a single family residence. The property is much higher in front than at the rear. There is a series of retaining walls. There is a horseshoe shaped driveway. The pool will be located along the east portion. It is the only place to fit a pool. We are taking out the patio. The area is flat. The pool will be constructed right at grade. The proposed pool is 3½' from the bulkhead. This is a rear yard. There really is no better place. It is within 50' of the mean high water. It does not have any impact on any surrounding structures. There is no negative impact. This is being placed on an existing bulkhead. It is exempted from DEP regulations.

Attorney Middleton said the positive is met because of the grade of the property.

Mr. Leff said a good portion of the property is water. This is the only place on the property you can put a pool.

Mrs. Morrissey said can it be placed on the side? Mr. Leff said there is not enough room on the side to place a pool.

Attorney Middleton said the applicant will comply with the ordinance regarding bulks. Mr. Leff said yes. This is a 4' high pool. The fencing ordinance will be met.

Mrs. Morrissey said her concern is the Shark River. How do you care for the pool so the water does not go into the river? How do you dispose of the water? Attorney Middleton said you have to backwash. You don't empty the pool during the winter. Typically the water will run on the lawn. Attorney Cramer said the run-off will be on the property. Attorney Middleton said yes.

Mr. Slocum asked how much pressure goes to the bulkhead. Mr. Gerken said that will be handled through the Building Department. One of the reasons for the 50' is generally for stability purposes. In this case it is fully bulkheaded so he has no concerns. They have agreed to the fencing. They are just going to backwash onto the lawn area.

Mr. Gray asked if there were any pavers. Mr. Leff said no.

Mr. Gray asked about a walkway. Mr. Leff said it is a very short distance, about 10'. We are well below the impervious coverage.

Mrs. Morrissey asked what type of fencing. Mr. Leff said it will be a railing that is attached to the deck itself.

The application was open and closed to the public.

Attorney Cramer asked if there was any additional property that can be acquired. Attorney Middleton said no.

Mr. Gray moved to approve the application as applied for. Mrs. Draper seconded the motion, which was unanimously approved by a roll call vote. (Mr. Gray, Mrs. Draper, Messrs. Morris, Slocum and Mrs. Morrissey voted yes.)

**#BOA36-2008** - Date application complete: December 18, 2008

**APPLICANT:** JAMES FOGLIO

**PROPERTY:** 1608 Bass Point Road, Block 880, Lot 27, R-30 zone

**RELIEF REQUESTED:** Bulk

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

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

Entered into evidence:

- A-1 Jurisdictional Items
- A-2 Grading and drywell plan prepared by Insite Engineering last revised June 19, 2008
- A-3 Rendering of updated plan

BOA-1 Engineering plan review prepared by Glenn Gerken dated February 27, 2009

BOA-2 Planning review prepared by John Hoffmann dated February 26, 2009

BOA-3 BOA Resolution for Block 880, Lot 27 dated March 7, 2001

Sworn by Reporter Arnone:

- Jim Foglio
- Richard Graham
- Paul Amato
- Glenn Gerken

Attorney Middleton said this case started in 1993 and did not end until 2005. He said he got involved in 1997. The applicant filed an application to build a house on lot 27. The lot is 19,000+ s.f. where 30,000 was required. Because it was undersized we had to come before the Board. The Township has changed the way it calculates lot area. Properties on the river can include the area allowed by the riparian grant. It is a grant from the State of New Jersey. It gives the property owner ownership of the ground under the water. The last was issued in 1969. Now they rent the property from the State. This property has the grant. We comply with lot area. In 1997 we did not. The applicant appeared in over 27 meetings. The applicant was given approval. There was an appeal. It went all the way up to the Supreme Court and the approval of this Board was upheld. There was much to do about the size of the house. In an attempt to move things along the applicant agreed not to use the attic space as habitable space. Paragraph 20 of the resolution contains the process that the attic area would be used as an attic and not living

space. The applicant is here to have that removed. One of the legal reasons to support this are changed circumstances. This is a change of circumstance case.

Mr. Foglio showed the front of the house. He said in the back there is really a nice view and it is a great little room. That is what we want to utilize.

Mr. Foglio said he is the owner of the property. He is in the process of building a house. We are living now on Belmar Boulevard. We are trying to move off the Boulevard because we have a baby.

Attorney Middleton said you are seeking permission to use the space as habitable space. Mr. Foglio said it is a great room. We have a two year old and it will be a great playroom.

Attorney Middleton said there are windows and when you look out those windows you look down at the river in a southwest direction. Mr. Foglio said correct.

Attorney Middleton said no portion of the house will be used for your business. Mr. Foglio said no his business is on 138. He is just west of Jost Garage.

Mrs. Morrissey asked how high the ceilings in that part of the attic are. Attorney Middleton said 7.3'.

Mrs. Morrissey asked for square footage. Attorney Middleton said the architect will answer that.

Mr. Slocum asked for the height of the house. Attorney Middleton said 31'.

Mr. Gerken asked if the room is in the house or in the garage area. Attorney Middleton said solely in the house. The resolution has a restriction for the garage. Attorney Cramer said it is just for the principle dwelling. Attorney Middleton said we are just here for the house portion this evening.

Mrs. Morrissey said no kitchen. Attorney Middleton said no just a room.

Mrs. Morrissey said no commercial use. Attorney Middleton said no.

Richard Graham, Architect, gave his credentials which were accepted by the Board.

Attorney Middleton said to Mr. Graham you were asked to provide testimony regarding the use of a portion of the attic as habitable space. Mr. Graham said yes.

Mr. Graham explained the room is a space that is 619 s.f. The space we are looking to use is one-third of the attic space. This complies with the zoning requirements. The space is 619 s.f. The height is 7.4'. The other two-thirds of space the height is less than 7.4'. It is consistent with the zone requirements.

Attorney Middleton asked Mr. Graham for the height of the house. Mr. Graham said 31'.

Mrs. Morrissey asked for the square footage of the whole house. Attorney Middleton said approximately 4,500 s.f.

Mr. Gray asked how you gain access to this space. Mr. Graham said there is a full staircase.

Mr. Gray asked about the area that is not going to be used. Mr. Graham said it will be just attic space. It is enclosed attic space.

Mrs. Draper asked if there will be cooking. Attorney Middleton said no just a bathroom, no kitchen.

Mr. Gray said there is going to be a bathroom on the third floor. Mr. Graham said just for convenience.

Mr. Gray asked if that was part of the 619 s.f. Mr. Graham said yes.

The application was open and closed to the public.

Entered into evidence:

BOA-1 Engineering plan review prepared by Glenn Gerken dated February 27, 2009

BOA-2 Planning review prepared by John Hoffmann dated February 26, 2009

BOA-3 Amato resolution of approval

Mr. Gerken said the questions he had were regarding above the garage and that was answered. We were concerned this could be an apartment.

Mrs. Draper asked in case of a fire how would the people on that third floor get out. Mr. Graham said there is an emergency egress window. You can also exit the main dormer.

Attorney Middleton asked does the construction meet all the codes of the Building Department including fire sub code. Mr. Graham said yes.

Mrs. Morrissey asked if there were any objectors. Attorney Middleton said no. All the neighbors have been notified. No neighbors are here tonight. The neighbors are in support of the application.

Mr. Gray said have all the other conditions been met according to the approved resolution. Attorney Middleton said yes.

Mr. Amato said all the conditions have been met or will be met. Two of the drywells are in and two more will be put in after the garage is built. This room is very common. Sometimes it is called a mezzanine. The same steps that go to the second floor go to the third. It is really part of the house. It is very common.

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Mr. Gray moved to approve the application subject to the attachment of the approved resolution and no relief for the garage just for the main house. Mr. Slocum seconded the motion, which was unanimously approved by a roll call vote. (Messrs. Gray, Slocum, Morris, Mesdames Draper and Morrissey voted yes.)

**MINUTES TO BE ADOPTED:** Mr. Gray moved to approve the minutes of the study sessions and regular minutes of February 18, 2009. Mr. Slocum 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 8:20 P.M.

Respectfully submitted,

Betty Schinestuhl