

**TOWNSHIP OF WALL
ZONING BOARD OF ADJUSTMENT
MINUTES OF THE REGULAR MEETING
HELD IN THE MUNICIPAL MEETING ROOM
OCTOBER 21, 2009**

The Regular Meeting of the Wall Township Board of Adjustment was called to order by Chairwoman DeSarno at 7:30 P.M. Members present were Chairwoman DeSarno, Vice Chairwoman Morrissey, Jim Gray, Ray Slocum, Kevin Orender, first alternate Mary L. Burne, second alternate Mark Margadonna, Attorney Cramer, Planning Secretary Roberta Lang, Recording Secretary Betty Schinestuhl, Engineer Gerken, Planner Bergailo and Reporter Arnone.

SALUTE TO THE FLAG

Attorney Cramer announced that all requirements under the Open Public Meetings Act had been complied with for this meeting and read the purposes of the Board of Adjustment.

Chairwoman DeSarno announced the Sims application will be carried to February 3, 2010. Re-noticing is required.

NEW APPLICATION

#BOA17-2009 – Date application complete: August 4, 2009

APPLICANT: FREZZA IV, LLC

PROPERTY: 2933 Adams Street, Block 769, Lot 4.01, R-15 zone

RELIEF REQUESTED: Use/subdivision

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

Barry E. Rosenberg, Esq. appeared for the applicant.

Entered into evidence:

- A-1 Jurisdictional Items
- A-2 Preliminary & Final Site Plan prepared by Engineering Design last revised September 28, 2009
- A-3 Stormwater Management qualities
- A-4 Construction Specifications dated July 7, 2009
- A-5 EIS prepared by Engineering Design Associates dated May 2009
- A-6 Colored rendering of site plan
- A-7 Aerial of site

- BOA-1 Engineering plan review prepared by Glenn Gerken dated September 16, 2009
- BOA-2 Planning plan review prepared by Cheryl Bergailo dated September 15, 2009
- BOA-3 Water/Sewer report prepared by Carmela Roberts dated September 15, 2009
- BOA-4 Memo from Ken Critchlow, Public Works, dated August 6, 2009

BOA-5 Bureau of Fire Prevention plan review dated August 11, 2009

Sworn by Reporter Arnone:

Steve Filippone
Lester Nevencahl
Joseph Frezza
Glenn Gerken
Cheryl Bergailo

Attorney Rosenberg explained this is located on block 769, lot 4.01. The applicant is proposing a three lot conforming subdivision.

Steve Filippone gave his credentials which were accepted by the Board.

Attorney Rosenberg asked Mr. Filippone to describe the property and what exists on the site. Mr. Filippone said it consists of 1.15 acres. It is located at the corner of Hurley Pond Road and Adams Street. There were three structures on the property. One dwelling was removed. It was in deplorable condition. The second structure is a two-story dwelling. There is also a one-story cottage on site. It is about the size of a two car garage. There is a loop driveway and asphalt parking area. There is an existing shed, swimming pool and garden area. It is in the R-15 zone.

Attorney Rosenberg asked what is adjacent to the site. Mr. Filippone said it is predominantly residential. There is a farm across the street. All residents are single family homes.

Attorney Rosenberg asked what is proposed. Mr. Filippone said a three lot subdivision. They are proposing to take a portion that fronts on Hurley Pond Road and create two individual dwelling lots. They will be adequate. The Adams Street lot will be 18,000 s.f. We would like to see the two dwellings on the property also the swimming pool. We have made some improvements to the property. We are making the driveway off Adams Street.

Attorney Rosenberg asked what variances are required. Mr. Filippone said proposed lot 4.02 has an existing side yard setback variance. The cottage is less than 1' from the property line and that is also a pre-existing condition. Rear yard setback is 15'. Attorney Rosenberg asked if any of these are caused by the sub-division. Mr. Filippone said no they are existing.

Attorney Rosenberg asked if some use variances are needed. Mr. Filippone said yes for two dwellings on one property.

Attorney Rosenberg asked about the landscape plan and Stormwater Management. Mr. Filippone said we are adding shade trees, such as, Leyland Cypress. We have done everything we can to preserve everything on the property.

Mr. Filippone said the topography slopes from the rear to the front. Nothing that would cause any development issues, nothing unusual. The water will go away from the property to Hurley Pond Road.

Attorney Rosenberg asked about utilities. Mr. Filippone said an extensive review for all three properties was done. Water/sewer and gas are available. Mr. Gerken said one sewer goes into an easement. Mr. Filippone said that is correct.

Attorney Rosenberg asked about tree preservation. Mr. Filippone said we have a tree removal plan. We have labeled all trees on the property. We will preserve all trees except where the structures are going.

Attorney Rosenberg asked about CMX review letter regarding perfecting the sub-division. Mr. Filippone said it will be perfected by map.

Attorney Rosenberg said on page 5 of CMX's review letter item 2 regarding drainage scale. Mr. Filippone said the swales were placed in the Stormwater management easements.

Attorney Rosenberg asked about the site triangle in the Stormwater management easement and the lot numbers. Mr. Filippone said they will be done.

Attorney Rosenberg asked about the Stormwater management. Mr. Filippone said the water goes off the roof tops into the filtration system. We will provide the information requested.

Mr. Gerken said he did have the ability to go over the revised plans. Everything underneath Stormwater management, site plan show all the details. Show the parking on Adams Street. They have taken out the existing driveway and made four parking stall areas. The utilities have been shown. They have provided everything on the plans. Everything has been satisfied.

Attorney Rosenberg said no sidewalks or curbs. Mr. Filippone said we are seeking relief. There are no sidewalks or curbs in the neighborhood. Mr. Gerken said there is none along any of those blocks.

Attorney Rosenberg asked about the review letter from Ms. Bergailo. Ms. Bergailo said she reviewed the plans. All of our site plan comments have been addressed.

Mrs. Morrissey said from Adams Street the wall on the left side is that a neighbor's property above the blocks. Mr. Filippone said it is not that much higher. There is nothing unusual. The neighbors might have a slight change in elevation from our property to the adjoining property.

Chairwoman DeSarno said if the wall came down would it be creating a problem. Mr. Filippone said no.

Mr. Slocum asked if they wanted to keep two dwellings on one lot. Mr. Filippone said yes.

Mr. Gray said the 7' wall on Adams Street is that staying. Attorney Rosenberg said the application shows that it will remain.

Attorney Cramer asked Mr. Filippone to comment on the existing condition of the cottage. Mr. Filippone said it is a one bedroom dwelling, single story structure. The wall was kind of built into that cottage. It is one and the same. Attorney Cramer asked if it was a sound structure. Mr. Filippone said it is in good shape.

George Kay, 2934 Adams Street, said he lives right next to the wall. The wall is going to stay? Mr. Filippone said yes.

Mr. Kay said it has cracks in it I would like to see them repaired. He said it is in very bad condition. Who is going to take care of the property? Attorney Rosenberg said Mr. Frezza will respond.

Mr. Scillieri, Adams Street, asked what is the rationale in keeping that wall it is in deplorable condition. Attorney Rosenberg said Mr. Frezza will respond.

Mr. Kay said in the notice they are trying to subdivide two conforming residential lots. This wall, to me, doesn't look like anything conforming.

Attorney Cramer asked if any structure examination has been done. Mr. Filippone said no.

Lester Nevencahl gave his credentials which were accepted by the Board.

Mr. Nevencahl explained he reviewed all documents, reports from the Board Professionals and resolution of approval from the Planning Board dated September 25, 2000. He did a field investigation. He said he will answer any questions regarding existing conditions. There are two single family dwellings on site. It is in the R-15 zone. There are single family dwellings to the east and west. There is mostly farmland across the street. This application requires D2 and D5 variances. There is one dwelling permitted per lot. It is an expansion of a non-conforming use. There will be no increase in size of any structure. The dwellings will be reduced from three to two.

Mr. Nevencahl explained the new lots are conforming to all zoning requirements. There are no negative criteria and no substantial detriment to the surrounding properties. The existing dwelling and wall has been there for many years. It is unique. The existing conditions would be improved. No detriment to the surrounding neighborhood. There will be a decrease in density.

Chairwoman DeSarno said you can't see beyond the wall how would they see the improvement. Mr. Nevencahl said some of the wall will be removed.

Mr. Slocum asked if anyone has done an inspection on that wall. Mr. Nevencahl said Mr. Frezza will address that.

Mr. Gray said you have something from the Planning Board. Mr. Nevencahl said we have a resolution of approval. Attorney Rosenberg explained there was a minor sub-division where a lot was spun off. The lot spun off was also conforming. Mr. Frezza just recently purchased the property.

Darrin Scillieri said he doesn't understand decreasing the density. Mr. Nevencahl said technically there would be a decrease. A major structure has been removed from this property. It reduced the density on that portion of the property.

Attorney Rosenberg asked Joseph Frezza if he was the applicant and owner. Mr. Frezza said yes.

Attorney Rosenberg asked when he purchased the property. Mr. Frezza said January 2009.

Attorney Rosenberg said there were three dwellings on the north portion of the lot. Mr. Frezza said yes.

Attorney Rosenberg said you had one dwelling removed. Mr. Frezza said yes. Attorney Rosenberg asked why. Mr. Frezza said it contained black mold, termite damage and it was in the worse condition of the three buildings. There was a fire there previously. It was not safe. It would have taken a lot of work to save it.

Mr. Frezza explained the main house has two bedrooms and one bathroom. The condition is fair to good. Mr. Frezza explained there is a tenant there now. He had to bring the pool into conformance. We got a building permit and put up a fence. We enclosed it to make it safe.

Attorney Rosenberg asked if there were going to be any other site improvements. Mr. Frezza said he would need to repair the wall. It has pretty good integrity. The wall provides some privacy. It would make no sense to remove the wall in the southeast portion.

Attorney Rosenberg said access was from Hurley Pond. Mr. Frezza said yes if we take the wall down and put up a fence you are right out on the street. The wall gives some privacy. We will put some money into it so it has a nice appearance from the road.

Attorney Rosenberg asked would he have an engineer inspect it. Mr. Frezza said he doesn't think that is necessary. It is concrete block.

Mrs. Morrissey said what would be the problem in removing it in the front and putting in shrubs. Is there anything you can do to the front to make it look more residential. Mr. Frezza said I think someone would like the privacy.

Mrs. Morrissey asked how old the wall was. Mr. Frezza said 60 – 80 years old.

Mrs. Morrissey asked if it was possible for the cottage to be removed. Mr. Frezza said it is part of the wall.

Mr. Gray asked if the fence around the pool was conforming. Mr. Gerken said they got a permit for that and it conforms.

Mr. Gray said you need that wall. Mr. Frezza said it needs to be dressed up. It is right out on the street. Is there anything in the ordinance regarding the wall or fence? We can bring the height down and dress it up.

Mr. Gray said there is nothing in the ordinance preventing you from having it but it has to be 4'. I don't think there is a need for the wall or gate there. You can do a lot with privacy and shrubs. The gazebo is next to the garden area. Mr. Frezza said it is right up against the wall.

Mr. Gray said there are a lot of things going on in the front yard. Dropping it to 4' and getting rid of the shed is good. The gazebo, I can go either way on that. You can put a lot of shrubs to block the view. Going back 30' is a good idea.

Mr. Slocum said I would like to make sure the wall is safe all around.

substantial parking spaces. It is on a highway. The only thing we do not have is 100% non-profit. We believe that a use variance can be granted.

Mr. Ernst stated he is the President and operator. He has already sold trees and wreaths. He said we intend to donate to American Cancer Society.

Attorney Vella asked if there would be any problem with traffic. Mr. Ernst said there would be no problems and there is ample parking. No issues.

Mr. Ernst explained he took a year off because he submitted to Wall last year but he would not have been heard until December and that would have been too late.

Attorney Vella asked why he donates to the American Cancer Society. Mr. Ernst said a member of his family has cancer.

Attorney Vella asked what his plans were for this year. Mr. Ernst said 5% of gross sales will go to the American Cancer Society.

Attorney Vella said you have two letters from them. How did these letters come about? Mr. Ernst said both of the women from the American Cancer Society could not be here tonight but they were able to write letters. There will also be a donation box on site.

Attorney Vella asked if the Circus was in operation and when do you intend to open. Mr. Ernst said the Circus is closed at this time. He said he intends to start selling trees the Friday after Thanksgiving to Christmas Eve.

Mr. Ernst explained there will be nothing outside the dotted lines on the plans. The line is a temporary fence. It is for the protection of the materials. Inside the fence will be trees, port a john, pod for register and then just the holiday materials.

Attorney Vella asked if there will be anything else on site. Mr. Ernst said no.

Attorney Vella asked for the hours of operation. Mr. Ernst said 10:00 AM to 9:00 PM.

Attorney Vella asked about lighting. Mr. Ernst said everything will be self-contained. We do not need a generator.

Attorney Vella said there is no need to light everything because there will be no business outside. Mr. Ernst said correct.

Attorney Vella said, regarding electricity, there will be no use of internal services. Mr. Ernst said correct.

Attorney Vella said you picked the site because it is not in use at this time of year. There will be no parking problems or traffic. Mr. Ernst said the site is perfect.

Attorney Vella said you reviewed the ordinance and except for use and setbacks you will meet all conditions. Mr. Ernst said correct.

Attorney Vella said you are not selling cars, etc. just Christmas trees. Mr. Ernst said correct.

Attorney Vella said this will benefit the American Cancer Society. Mr. Ernst said correct.
Attorney Villa said you are donating 5%. Mr. Ernst said yes.

Attorney Vella said the use variance goes with the land. My client's business meets the intense purposes. The site is suited for this type of use. We are not putting it in the Shop-rite or in a gas station. We meet the intent of the ordinance and the site is suited. We would submit next year as part of our approval. The applicant will submit a letter to the Board that they are still donating 5% or more to charity.

Attorney Vella said the site is suited. It does not operate during this time. The landlord said that they will not be in operation during that time. If someone else buys it and puts in residential this would cease.

Attorney Cramer said as part of the Board approval it retains jurisdiction over this temporary use. Annually, prior to operation, certifications must be provided by the applicant.

Mr. Orender said what if the landlord doesn't want him there anymore. Attorney Cramer said then it ends.

Attorney Vella said the landlord controls whether we are there or not. If we do not meet the conditions then no approval that year.

Mrs. Morrissey asked about signage. Mr. Ernst said we will use what is on the structure nothing else. There will be no signage on the highway.

Mr. Gray said the lighting you will be plugging into electric no generator. Mr. Ernst said correct.

The application was open and closed to the public.

Mrs. Morrissey moved to approve the application subject to the conditions as discussed tonight. Mrs. Burne seconded the motion, which was unanimously approved by a roll call vote. (Mesdames. Morrissey, Burne, Messrs. Gray, Margadonna, Orender, Slocum and Mrs. DeSarno voted yes.)

RESOLUTIONS TO BE MEMORIALIZED:

JOSEPH SCELFO - #BOA16-2009

Block 111, Lot 8

Gray/Morrissey

MACK DELLETT - #BOA23-2009

Block 751.02, Lot 19

Slocum/Morrissey

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