

**EAST AMWELL
ZONING BOARD OF ADJUSTMENT - MINUTES
Municipal Building – 7:30 PM
November 9, 2010**

Call to order and compliance with the Open Public Meetings Act

The regular meeting of the Board of Adjustment was called to order at 7:30 PM on November 9, 2010 in the Main Meeting Room of the Municipal Building, 1070 Route 202/31, Ringoes, NJ by Administrative Officer Andrews.

In compliance with the Open Public Meetings Act, Ms. Andrews announced this was a regularly scheduled meeting pursuant to the Annual Meeting Notice as published in the January 21, 2010 issue of the Hunterdon County Democrat, filed in the Township Clerk's Office, and posted on the Bulletin Board on November 3, 2010.

Roll Call and Agenda Review

Present: Sherrie Binder
Nancy Cunningham – Chair
Gael Gardner
Paul Gavzy
Sue Posselt
Kendra Schroeder
Diana Garrett – Alt. #1 – *(arrived at 7:49 PM)*
Anne Williams – Alt. #2

Absent: Gloria Frederick

Presentation of Minutes

A motion by Paul Gavzy, seconded by Kendra Schroeder to approve the minutes, as revised, from the Board's 10/12/10 meeting was unanimously approved.

Presentation of Bills for Payment

A motion by Paul Gavzy, seconded by Sue Posselt, to pay the vouchers as listed on the agenda was unanimously approved.

Correspondence

It was noted that the correspondence will be dealt with as it comes up over the course of the meeting.

Applications to be Deemed Complete or Incomplete

Matthew Wilkinson – B:21 L:19.07 – 171 Cider Mill Road

Present for the application was property owner Matthew Wilkinson. Attorney Waterbury commented that she had reviewed the application and noticed that Mr. Wilkinson is requesting a use variance. She noted that the Board of Adjustment has already ruled that use variances are not needed to have an agricultural use in the Amwell Valley zone regardless of the size of the lot. Attorney Waterbury remarked that the one issue which the Board has not definitively addressed is whether or not a lot area variance is needed. She indicated that Mr. Wilkinson's lot is undersized for the zone and the Board has already determined that a lot area variance is needed when applicant's are requesting farm structures on lots under 5 acres, but the Board has never addressed the question of having an agricultural use on an undersized lot with no associated farm structures.

Attorney Waterbury suggested Mr. Wilkinson’s application be converted to an application requesting a zoning ordinance interpretation and simultaneously a lot area variance, and any other variances that may be required, can be requested. Mr. Wilkinson agreed with Attorney Waterbury’s suggestion.

A motion by Paul Gavzy, seconded by Sherrie Binder to deem the application complete provided that Mr. Wilkinson submit a revised application requesting a zoning ordinance interpretation and a lot area variance—and any other variances that may be required was unanimously approved.

Applications for Public Hearing

It was noted that there were no applications listed on the agenda for public hearing.

Old Business

Discussion: Email Distribution of Draft Minutes

Chair Cunningham noted that at the Board’s last meeting, it was discussed whether or not the Board wished to make their draft minutes available on the website. It was the consensus of the Board to post their draft minutes but they wanted to see what the other Boards/Committees were going to do prior to making a final determination. Chair Cunningham remarked that the Planning Board and Township Committee were in favor of posting their draft minutes on the website. It was noted that the Board of Adjustment will begin making their draft minutes available on the Township website.

New Business

Discussion: 2011 Board of Adjustment Budget

The following budget requests were made:

Zoning Secretarial	\$200	was: \$250 in 2010
Zoning Admin. Officer	\$15,540	no change
Zoning Officer	\$11,955	no change
Other Expenses	\$300	was: \$350 in 2010
Legal General	\$4000	no change
Dues/Meetings/Training	\$400	no change
Legal Lawsuits	\$3000	was \$1200 in 2010
Zoning Officer Expenses	\$150	was \$50 in 2010

It was noted that the total budget for 2010 was \$33,745 and the Board was requesting an increase of \$1800 for a total budget of \$35,545 in 2011.

Comments of Board Members

Mr. Gavzy commented on members of the public using meeting time to speak about matters unrelated to Board business. Attorney Waterbury and Chair Cunningham both stated that members of the public have the right to speak freely during the open to the public portion(s) of the Board meetings.

Ms. Gardner commented that she has a concern regarding enforcement issues. She said, “We make conditions on properties that have come before us...and I make a point of driving around maybe 6 months after we approve something and look at these properties...and they haven’t done it. They haven’t gone according to what we suggested or what we said they had to do. The Planning Board has some sort of problem I gather with this sort of thing too...I think there ought to be some way of making a list at the end of the year...of the properties we have considered and the conditions we have put on those properties so that Dick (Zoning Officer McManus) can look at them.”

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Attorney Waterbury noted enforcement issues arise in many towns and she stated that normally the applicant seeking the variance relief will require a building permit at some point and won't be able to obtain one unless and until all conditions in the Resolution of Approval have been satisfied. She said there are some situations where permits are not needed and then there is no mechanism for catching potential violations. Attorney Waterbury suggested a provision be incorporated into the Township's Ordinance that gives all applicants a specified period of time in which to satisfy conditions of approval. She noted that with variance approvals this is slightly tricky because the approval runs with the land and noncompliance of conditions of approval would become zoning violations that the Zoning Officer must enforce.

Attorney Waterbury suggested Ms. Gardner report her concerns to Zoning Officer McManus. Ms. Gardner indicated she had two concerns right now saying, "One on Mountain Road where we said years ago they have to set the shed in back of the front of the house. They moved it. Now they put another shed in front of the house." Chair Cunningham noted in that case the property owner had complied with the Board's approval and the new shed is perhaps a new zoning violation. Ms. Gardner said, "The other thing is the place over on Back Brook Road which was supposed to put in a...considerable amount of fencing and has not and now the place is for sale." Attorney Waterbury directed Ms. Gardner to speak with Zoning Officer McManus.

Ms. Posselt clarified that the Zoning Officer is provided with copies of all of the Board's approved Resolutions and asked if there is a timeframe specified in the Resolution allowing for the project to be completed. Attorney Waterbury explained the Ordinance allows for a specific period of time in which applicants have to pull building permits which is referenced in the Board's Resolutions but specific deadlines are not outlined in the Resolution. She noted specific deadlines can be established but the trouble in doing so is that it will be done on an ad-hoc basis. She stated the better practice is to have a provision actually in the Code so that deadlines are applied uniformly and it becomes a process applicants are aware of.

Ms. Gardner asked if it would be possible for Ms. Andrews to keep a list of conditions of approval for each application and provide it to the Zoning Officer. Attorney Waterbury noted that the Zoning Officer is only allotted so many hours per week and it would be up to the Township to determine whether or not they want to give Zoning Officer McManus additional weekly hours in order to conduct more enforcement. She also suggested that Ms. Gardner could send a letter to the Township Administrator indicating this is an issue and requesting that the Zoning Officer keep track of these things and enforce them. Chair Cunningham remarked that it may be a good idea for Township Administrator Matheny and/or Zoning Officer McManus to get a copy of this month's Board minutes noting this specific discussion. Ms. Andrews noted she will follow up with them accordingly.

Ms. Schroeder asked Attorney Waterbury what portion of the ordinance should be reviewed for next month's public hearing. Attorney Waterbury stated she will provide the Board with a legal memo prior to the meeting.

Chair Cunningham commented that she will not be in attendance at next month's Board meeting. It was noted that Ms. Schroeder will be chairing the Board's December meeting.

Attorney Comments

Attorney Waterbury made no additional comments.

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Open to the Public

A motion by Sherrie Binder, seconded by Kendra Schroeder to open to the public was unanimously approved. No one from the public was present at the meeting at this time. A motion by Paul Gavzy, seconded by Sherrie Binder to close to the public was unanimously approved.

Adjournment

A motion by Paul Gavzy, seconded by Sherrie Binder to adjourn the meeting was unanimously approved.

The meeting adjourned at 8:28 PM.

Maria Andrews, Administrative Officer