

**EAST AMWELL  
ZONING BOARD OF ADJUSTMENT MINUTES  
Municipal Building – 7:30 PM  
October 11, 2016**

**Call to order and compliance with the Open Public Meetings Act**

The regularly scheduled meeting of the Board of Adjustment was called to order at 7:30 PM on October 11, 2016 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, the Administrative Officer announced this was a regularly scheduled meeting as published in the January 28, 2016 issue of the Hunterdon County Democrat, filed in the Township Clerk's Office, and posted on the Bulletin Board on October 5, 2016.

**Roll Call and Agenda Review**

**Present:** Sherrie Binder  
Nancy Cunningham  
Gael Gardner  
Diana Garrett  
Kendra Schroeder  
Anne Williams – *Chair*  
Jamie Atkeson – *Alt. #1*  
Michele Doherty – *Alt. #2*  
Attorney Cecil  
Planner Slagle

**Absent:** Paul Gavzy (*observing the religious holiday*)

**Presentation of Minutes**

A motion by Nancy Cunningham, seconded by Gael Gardner to approve the Board's 9/13/16 minutes with no revisions noted was unanimously approved.

**Presentation of Bills for Payment**

It was noted for the record that no comments were made regarding any of the vouchers listed on the agenda.

**Correspondence**

It was noted for the record that no comments were made regarding any of the correspondence listed on the agenda.

**Applications to be Deemed Complete or Incomplete**

**Catherine Hicks – AJ-16-07: Appeal of Zoning Officer's Decision**

**Block 40.01 Lot 35 – Sourland Mountain**

**Submission Date: 9/14/16 – 45 days: 10/29/16**

Attorney Cecil explained that since there is no checklist for appeal applications the Board did not need to go through the formality of making a motion to deem the application complete and stated that all of the jurisdictional requirements for the public hearing to take place have been met. It was noted that completeness was listed on the agenda as an administrative detail.

**Applications for Public Hearing**

**Catherine Hicks – AJ-16-07: Appeal of Zoning Officer’s Decision**

**Block 40.01 Lot 35 – Sourland Mountain**

**Submission Date: 9/14/16 – 45 days: 10/29/16**

Present for the appeal was Catherine Hicks, the adjoining property owner to the subject site known as Block 40.01 Lot 35. Ms. Hicks came forward and was sworn in. She explained that she bought her property in 1988 and at the time her neighbor’s property contained a single family home with an attached garage. In 2001 the property owners sought and received variance approval to build a 2 car detached garage that was allowed to be 22 ft. high where 20 ft. was permitted. Ms. Hicks commented that she could not attend the public hearing on this matter at the time because she was working and raising 2 small children.

The application this evening is appealing the Zoning Officer’s issuance of a zoning permit to allow the garage structure at 120 Mountain Road to be converted into living space with a bedroom, bathroom and living room on the first floor and an art loft on the second floor. Ms. Hick’s maintains that the conversion to habitable space requires variance approval from the Board.

Ms. Hicks stated that the detached garage was built 30 ft. off of the property line which conformed to the zoning in 2001 but the current zoning would require the structure to be 50 ft. from the property line. She remarked that the structure has been rebuilt and is now larger than the original garage with parts of the building encroaching closer to the property line, specifically a second story deck. Ms. Hicks commented that there is a big difference between a garage and a living unit. She noted the conversion does not support the nature of the Sourland Mountain zone and once it’s built she is concerned it will become a rental unit. She also believes the apartment will devalue her property.

Ms. Hicks indicated she had gone to the Zoning Officer several times questioning the zoning permit approval and asking how a second dwelling could be built on the property when the lot is only 4 acres and the ordinance requires 30 acres for a secondary dwelling. She remarked the proposal is essentially building a second home, approximately 1500 sq. ft. between her home and the original house. She stressed questioning the approval many times with the Zoning Officer and stated he was not receptive to any of her concerns.

Attorney Cecil asked about the extension of the garage structure noting the plans provided to the Board do not show any change to the building’s footprint. Ms. Hicks explained that the footprint is the same, but stated there is a second story deck on the side of the garage which sticks out further than the footprint, making the overall structure bigger. Ms. Gardner referred to the second floor depiction of the garage that was included in the Board’s packets and commented that it does appear to show a 4 ft. extension that is 26 ft. wide on the front of the garage. Chair Williams stated she believes those are just measurement lines. Ms. Hicks added that the garage is also taller than the original garage. She explained the original variance approval in 2001 allowing the garage to be 22 ft. tall was granted so that the roof line matched that of the existing home. She noted that the garage is now taller and does not match those roof lines. Attorney Cecil noted for the record that the Board Members were referring to 3 pages of a portion of the site plans submitted to the Zoning Officer to obtain zoning permit approval and depicting the first floor, the second floor and the southeast elevation of the garage.

East Amwell Township Board of Adjustment Minutes – 10/11/16

Ms. Hicks questioned the well and septic suitability for the garage conversion to habitable space. Ms. Gardner referred to page 1 of the resolution for the original variance approval which states the garage will not be used for living space. Attorney Cecil commented that the variance was not expressly conditioned upon the garage being limited to storage with no living quarters, heat or electricity. However, she remarked that it is a representation of what the structure was going to be used for and said it obviously had some significance to the Board because the language is contained in the resolution. She clarified the question before the Board is, “Is this a permitted use in the zone, either as a principal use, conditional use or an accessory use.” She noted this is outlined in her legal memorandum dated 10/7/16. It was also noted that Planner Slagle provided a memo dated 10/6/16 outlining the zoning standards for the Board as well.

Ms. Hicks presented **Exhibit A-1**: A Google Earth 8”x10” picture of the original garage structure in 2015 and **Exhibit A-2**: Two 4”x6” color photos of the garage taken by Ms. Hicks in October 2016 depicting a second story deck or balcony sticking out off of the original building footprint. Chair Williams asked about the existing fence shown in the photo. Ms. Hicks explained that the fence is about 10’ high and was installed to block a dumpster that was used by the current property owner’s ex-husband for his business.

Ms. Hicks stated her property line runs along the subject site’s driveway and the balcony sits overlooking her bedroom window. It was said to be approximately 34 ft. from the property line.

Ms. Hicks asked the Board if the zoning requirement was a 30 ft. side yard setback in 2001 but now requires a 50 ft. setback, shouldn’t any additions to the structure trigger variance approval. Attorney Cecil referred to a grandfathering provision in the Township’s ordinance that allows an addition to be made to a non-conforming accessory structure as long as it doesn’t encroach any further into the setback. Ms. Hicks stated the balcony does encroach closer to her property. Attorney Cecil agreed and noted the balcony is not shown on the plans provided to the Board.

Zoning Officer Peter Kneski came forward and was sworn in. Attorney Cecil asked about the existing balcony shown in the photo taken by Ms. Hicks last week. He explained that during construction there were additional features implemented that were not part of the original permit. He stated a stop work order was issued by the Construction Department. He noted the approved signed plans include dormers on the north and south side of the structure. He clarified that the dormer construction does not exceed the maximum permitted accessory structure height allowed by ordinance which is 20 ft. The roof line, however, is permitted to be 22 ft. by variance approval granted in 2001 for the original garage structure.

Ms. Gardner asked what is going to happen with the deck. Zoning Officer Kneski stated there is no deck on the structure and explained it was added during construction but not approved with the original plans. Attorney Cecil noted that a deck currently exists as part of the building. Zoning Officer Kneski said that it will have to be removed once the stop work order is lifted. He noted the contractor and property owner are both present and suggested the Board get testimony from them.

Planner Slagle asked if the dormers are in line with the original footprint. Zoning Officer Kneski said, “...since 2001 there were changes to the Sourland Mountain zone which increased the 20 ft. (*setback*) to 50 ft. so the building, for the most part, is what we call non-conforming. The improvements...stay within the confines of the existing footprint so there is no enlargement or increase of non-conformity...there is no part of the improvement that expands the building footprint closer to the property line.”

Several board members questioned the dormers and Zoning Officer Kneski maintained that the dormers are recessed back from the edge of the existing footprint. Ms. Binder commented that they are adding considerable square footage to the second floor of the building. Zoning Officer Kneski agreed. Attorney Cecil asked if what the second story was going to be used for was explained when the plans were submitted for zoning permit approval. She stated they indicate the second floor will be an art loft and since it's his permit that is being challenged she asked what his understanding of how the second story will be used is. Zoning Officer Kneski stated, "My understanding is that it's going to remain the same as it was, just storage. There's no intention of using it for habitable space." Ms. Binder commented that adding dormers is quite an expense to add to the project if the space won't be used.

Ms. Gardner asked if the structure will be used as a rental unit. Zoning Officer Kneski said no and stated this conversion is clearly not a dwelling unit because he stated, "Our ordinance defines what a dwelling unit is. In order for it to be considered a dwelling unit it has to have cooking facilities...which it doesn't." He also stated it couldn't be considered a dwelling unit because it doesn't meet the required 30 acre criteria for the Sourland Mountain zone.

Ms. Gardner clarified that the structure could not be used as a rental unit or as a living unit for anyone outside of the family. Zoning Officer Kneski stated that was correct. Attorney Cecil asked if the zoning permit approval was conditioned upon such criteria. He stated his approval was based on what was represented to him by the property owner. Attorney Cecil clarified that since the zoning officer's approval of the zoning permit is being challenged, it's very important for the Board to understand what, if any, limitations were placed on the approval.

Ms. Binder stated she has concerns because there is an area on the other side of the proposed bathroom shown on the plans that provides access to plumbing and electrical which could easily be converted into a kitchen. Zoning Officer Kneski stated he doesn't disagree and commented that this is no different than any other single family homeowner who could convert their basement into a rental unit. He remarked he can't presume something is going to be created and deny a zoning permit based on such an assumption. Attorney Cecil referred to her legal memo stating there is a very big key difference between this proposal being in a separate structure vs. the existing home.

Ms. Gardner asked that since the original garage was not intended to be a dwelling unit, why can it suddenly be approved for one now. Zoning Officer Kneski stated it can't be. Ms. Gardner says it will have a bedroom, bathroom and living space which she considers a dwelling area. He maintained that the proposed conversion does not meet the specific definition of a dwelling unit under the ordinance.

Ms. Binder asked if cooking facilities must be a "range oven." She said 40 years ago that's what it probably meant, but today it may be a microwave. Planner Slagle was sworn in and explained that there is no definition for a cooking facility within the Township's ordinance but stated when reviewing cooking facilities for affordable housing which are described in the American Housing Survey the standards have changed from what would have been needed 40 years ago. A cooking facility is now defined as having a refrigerator, a sink with hot water and a microwave. Attorney Cecil asked Zoning Officer Kneski if there is any limitation on his zoning permit approval prohibiting cooking facilities. He said no.

East Amwell Township Board of Adjustment Minutes – 10/11/16

Ms. Garrett asked about the septic requirements. Zoning Officer Kneski stated this is usually handled through the Construction Office but noted there is a letter in the Township files from a professional engineer who analyzed the existing septic system and determined it is suitable for 4 bedrooms and the proposed garage conversion would be the fourth bedroom on the property.

Ms. Cunningham asked about the well. Zoning Officer Kneski stated he has no information regarding the well.

Attorney Cecil asked if there are any notes on the site plans expressly stating any limitation such as no cooking facilities or that the structure won't be used as a rental unit. Zoning Officer Kneski stated he wasn't sure and would have to go back and review the plans. He suggested the Board implement a clause in the deed indicating the garage cannot be used as a rental unit. Attorney Cecil stated that cannot be done at this point because the Board is dealing with the context of an appeal. Zoning Officer Kneski stated he can require it now given the concerns expressed by the Board.

Ms. Cunningham clarified that the on demand hot water system is proposed to be located outside of the bathroom, in a closet that is part of what is designated as the living area. Zoning Officer Kneski commented that the contractor can clarify this and stated the location of the hot water system is not a zoning detail that he considered.

Attorney Cecil asked for clarification that the stop work order was still in place. She asked if it was issued by the Construction Office and confirmed that it was not lifted when the zoning permit approval was reissued. Zoning Officer Kneski stated that was correct and explained that when the appeal was filed it "stayed" all proceedings.

Mr. Atkeson asked if there was running water to the structure when it was being used as a garage. Zoning Officer Kneski said he didn't believe so. Ms. Gardner commented there was no water, just electric. Ms. Schroeder read from the prior resolution of approval saying, "...in addition to storage upstairs, there will be no living quarters, heat or electric in the structure."

Property owner Deborah Sokol Ricci came forward with her Contractor Stephen Parcel. Both parties were sworn in. Ms. Binder asked why the garage needs to be converted to habitable space. Ms. Ricci stated her mom has severe rheumatoid arthritis and is handicapped. She explained her father died 3 years ago and that her mom can no longer live on her own without someone to care for her. She said her mom is 72, has survived many surgeries, and still wants her independence so she wanted to convert the garage into an apartment for her. Ms. Ricci said her mom is of sound mind but not body and sleeps most of the day because of her medications. She commented that she didn't want to put her in an independent living facility away from her because she doesn't believe she will live much longer.

It was noted that there will be a handicapped ramp from the converted garage to the main house. Ms. Ricci stated there is similar construction done a few house down from her where that property owner put a large addition consisting of a weight room, a bedroom and a bathroom next to their house which is connected by a breezeway.

East Amwell Township Board of Adjustment Minutes – 10/11/16

Ms. Ricci stated she reviewed the ordinance and has worked with Zoning Officer Kneski and her builder. She said the building remains the same size as the original structure and is grandfathered as a pre-existing building. She clarified that the area which keeps being referred to as a deck is actually proposed to be a greenhouse. Ms. Ricci said the second floor dormer area will be an art loft for her daughters because her mom cannot go up and down stairs. She stated it will never be rented out and she agreed to the Board placing a condition on the structure that it can only be used for her mom.

Ms. Ricci commented that she believes the question before the Board is really whether or not the structure is an accessory building or an addition. She said she would argue that it's an addition. If the Board doesn't agree then she noted she would argue the conversion does not meet the definition of a dwelling unit. If the Board considers it an accessory building then Ms. Ricci asked the Board to recognize that it can be used for a home occupation and she would argue that her mom meets the criteria of an "Advisor" under the language in the ordinance. Ms. Ricci expressed that the conversion will not be visible to the general public and will not disrupt the neighborhood.

Ms. Binder asked Ms. Ricci where her mom currently resides. She stated in her own home in Pennsylvania and explained that she typically comes to live with her in the winter.

Chair Williams asked for clarification on the construction sticking out off of the side of the garage and asked if it is actually the roof for the greenhouse. Contractor Parcel said yes and currently the structure is larger but that is not what was actually approved. Ms. Ricci explained that her architect filed all of the plans with the Zoning Officer and somehow he made an error and provided the wrong set of drawings to the Construction Office and those are the plans the contractor began building from. Ms. Ricci said when Ms. Hick's began complaining that's when it was discovered they were building off of the wrong plans and the stop work order was issued. Ms. Ricci stated that she had Phase I and Phase II drawings. Phase II was for the breezeway to connect a porch on top of her main house to the proposed balcony on the garage structure. Chair Williams stated she is still confused as to whether or not there are 4.5 extra feet currently built onto the back of the structure. Contractor Parcel said the 4.5 ft. will be shortened by 2 ft. when the stop work order is lifted and the garage will be back to its original footprint. He referred to the deck area shown in Exhibit A-2 and stated it is currently around 6 ft. and on the approved plans it's shown as 4.6 ft. Chair Williams questioned that the original footprint of the garage building was supposed to be 26 ft. Contractor Parcel stated it is 30.6 ft.

Ms. Binder asked if the second floor art loft will be completely finished living space with heat. Ms. Ricci said yes. Attorney Cecil clarified that the original height variance has nothing to with whether or not relief is needed based on how the structure is going to be used. She stated the height variance is only relevant with regard to the proposed dormers. She noted it is an alteration to the roof but whether or not it has any effect or impact on the original variance is something the Board must decide. Contractor Parcel said the top height of the dormers will be 20 ft. Attorney Cecil stated that is not why this is an issue. She read from the original resolution saying the sole reason articulated by the Board in 2001 for the height variance was to allow the pitch on the garage roof to match the house. She clarified that now the garage roof is being altered and the Board must determine if it effects that original variance approval.

Ms. Cunningham asked if Ms. Ricci's mom will have a caregiver. Ms. Ricci indicated she will on a part time basis and the caregiver will not live on the property.

East Amwell Township Board of Adjustment Minutes – 10/11/16

Attorney Cecil asked how far the garage is from the existing home on the property. Ms. Binder stated it's 12 ft. from the home according to the legal memo that was provided to the Board.

A motion by Sherrie Binder, seconded by Gael Gardner to open to the public was unanimously approved by voice vote.

Richard Ginman of 125 Mountain Road came forward and stated he lives across the street. He expressed that while he believes everyone has compassion for Ms. Ricci's situation that is not issue. Mr. Ginman said the proposal doesn't create a visual detriment but stated it is a secondary dwelling that will have a considerable environmental impact on the Sourland Mountain. He explained that he moved to the Township in 1968 and there were no other houses on Mountain Road for quite some distance. He said his well currently produces less than 1 gallon of water per minute noting FHA mortgage standards are 5 gallons per minute. Mr. Ginman said there is no problem but it's an indicator why the Township established the current zoning ordinance based on the Master Plan where a professional hydrogeologist was hired to study the groundwater effects of the Sourland Mountain. He said it is a 15 acre minimum zone because it doesn't absorb water like other zones. Mr. Ginman commented that he doesn't see any justification for the Zoning Officer to have approved this permit. He said the Township did review mother-daughter dwellings over the years and doesn't permit them. He believes the Board is being naïve to think a condition limiting the use to only the property owner's mom will ever be enforced and commented that the Township has been "hoodwinked" before.

Tom & Catherine Vernam of 124 Mountain Road came forward and expressed support for the application stating the septic can accommodate the proposed additional bedroom and remarked that a kitchen area can literally be created in anyone's home at any time so they didn't believe this was really an issue. With regard to groundwater, Mr. Vernam pointed out that adjacent to their home are 100's of acres that have been conserved by D&R Greenway which reduces the potential of additional groundwater usage in the immediate area. He commented that Ms. Ricci is trying to care for a handicapped parent and he hopes she can continue with the construction. Ms. Vernam remarked that she has met Ms. Ricci's mom and said she truly needs to be cared for but her mom doesn't want to infringe on Ms. Ricci's space which is why the garage conversion was proposed. She said the deck above the old entrance to the garage always existed but it served as a roof instead. She stated nothing is changing or being enlarged and doesn't understand why there are any objections.

Chair Williams commented that the question is simply whether or not Ms. Ricci needs a variance to convert the garage. Ms. Vernam remarked that everything has been approved and expressed confusion. Attorney Cecil stated that is the question before the Board, whether the Zoning Officer should have approved it or whether he should have sent it to the Board. Ms. Verman stated that this is unfortunate and noted Ms. Ricci has invested a lot of money in a project that she was told was approved. Attorney Cecil remarked that the Board understands, and said there is a legal issue here which sympathy cannot answer.

Gary Parker of 112 Mountain Road came forward and expressed confusion with how this matter got to this point. He reminded the Board that all of the proper permits and approvals were received and said the property owner invested \$20,000 in construction and it is 7/8 done. He asked why this wasn't reviewed better and suggested maybe the neighbor could put up a curtain in her bedroom window.

East Amwell Township Board of Adjustment Minutes – 10/11/16

Frances Gavigan 123 Wertsville Road came forward and said she has a unique perspective. Ms. Gavigan explained that 12 years ago she was a paraplegic and friends and neighbors came together to help her. She expressed that the reality here is we are a community of people. She suggested the Board consider allowing the zoning permit to be amended to include a breezeway connecting the garage and primary home, or consider deed restricting it. Ms. Gavigan stressed the importance of taking care of one another noting that all parties acted in good faith and a lot of money has been spent.

Adele A. Pursell of 64 Runyon Mill Road came forward and stated she doesn't know either party but received notification of the appeal. She expressed concern with how the project could have gotten to this point after having received all of the proper permits and approvals. Ms. Pursell stated she believes it is unfair that things were stopped because of an objector when the property owner did everything correctly. She remarked that if an error was made on a permit that was issued, then the Township should have to live with it because the property owner did nothing wrong.

Catherine Titus of 128 Mountain Road came forward and expressed support for the application noting there is no negative visual impact associated with the proposed construction.

Seeing no other members of the public come forward, a motion by Sherrie Binder, seconded by Gael Gardner to close to the public was unanimously approved by voice vote.

Ms. Gardner asked Ms. Ricci what will happen when her mom passes away. Ms. Ricci said she would leave the structure the way it is, convert it to a home office for herself, or turn it back into a garage but expressed she didn't really want to make it back into a garage. Ms. Ricci stated she has no intention of renting it.

Attorney Cecil asked if the neighbor's comments were correct that the construction is 7/8 done and that \$20,000 has been invested. Ms. Ricci clarified that she has spent \$20,000 on the architectural plans and gave the contractor a deposit of \$40,000. She stated she believes about 35% of the construction was done when the stop work order was issued.

Ms. Hicks came forward again and said she agrees with Mr. Parker. She clarified that she attempted to get the Zoning Officer to re-review the project several times and he wouldn't. Ms. Hicks stated she told him she had serious concerns over the approved conversion and remarked about the ongoing disturbances with her neighbor's barking dog, the recycling bottles being dumped early in the morning and the garbage can be dragged up the gravel driveway. She stated she is worried about someone living in a structure so close to the property line and potentially creating more noise or disturbance. Ms. Hicks expressed sympathy for Ms. Ricci's situation and said she can relate because she cared for her own mom when she was 9 years old but commented that compassion aside, this construction conversion should not be allowed. She also stressed that the issue here is whether or not the Zoning Officer followed the law and she remarked that he did not.

Ms. Binder asked about the reference to the 1963 date within the Township ordinance. Planner Slagle explained the 1963 date is when the original zoning district was enacted. She said the subject structure was constructed after 1963 and what this comes down to is the use. There is a question on what defines a dwelling unit and also the issue of whether or not the conversion from a garage to a habitable area constitutes something that the Board should have reviewed.

Attorney Cecil clarified that the big question before the Board is how the structure is being used. She stated it is without question, an accessory structure and there are two categories it could potentially fit into and the Board must determine if it meets the criteria for either: Conditionally permitted for a secondary living unit, or a permitted accessory use within the Sourland Mountain (*there are 4*) – off street parking and loading, home occupations, wireless telecommunications antennas or a minor solar photovoltaic facility. Attorney Cecil went on to explain that within the 4 enumerated uses the LMO expands the definition of an accessory use as a use which is subordinate to and serves at a principal building or principal use, is subordinate in area extent and purpose to the principal building or principal use, is ordinarily and customarily associated within the principal use and includes solar energy systems, is located on the same lot as the building or principal use served except as expressly authorized by the provisions of the chapter. She continued to explain that if the use is accessory to a single family residence, it is limited to a garage, storage shed, swimming pool, gazebo, greenhouse and similar structure which is ordinarily and customarily associated with a single family residence as a principal use and has different setback requirements depending upon its class size.

Attorney Cecil stated the first question the Board must answer is whether or not this is a conditionally permitted secondary living unit or does the Board believe this is a permitted accessory use. She stated upon making that determination, the Board must then decide if this type of use is ordinarily and customarily associated with the principal use which in this case is a single family residence.

Mr. Atkeson asked Zoning Officer Kneski if this was the criteria he applied when he rendered his approval. Zoning Officer Kneski came forward and commented that was part of how he evaluated the zoning permit but pointed out the definition of an accessory structure and use saying that while it enumerates specific things, he believes the important language is “ordinarily and customarily associated with a single family residence” noting he interpreted that to mean having features and functionality that are normally associated with the functions contained in the principal dwelling unit. Planner Slagle commented that she would argue with that interpretation because while she understands the garage conversion is functioning as a residential use the fact that it is a separate building is significant and makes a big difference. She remarked it is not customary to put additional residential uses in a separate structure.

Zoning Officer Kneski asked if someone would be able to convert a garage into a playroom and noted this is an extension of what you would normally be able to do within a single family residence. Planner Slagle stated there is a distinct difference between having a playroom or a workshop vs. a bedroom and bathroom. She remarked you wouldn't put a child's nursery within a secondary structure and maintained there is a difference between common play area space and an actually living facility. Attorney Cecil pointed out that home occupations are an expressly permitted accessory use and can take place in a separate structure but noted they are limited to 750 sq. ft. She said the garage structure in this case is double that size. She also explained that secondary living units are allowed but also have very specific standards and guidelines that must be met.

Mr. Atkeson commented that based on the fact that the proposed conversion is not a playroom and will have a bedroom, a bathroom and is a living space he believes it should have triggered the need for variance approval. Attorney Cecil noted that variance approval provides for an open public hearing and gives the Board the ability to impose limitations and conditions on the use.

East Amwell Township Board of Adjustment Minutes – 10/11/16

A motion by Sherrie Binder, seconded by Kendra Schroeder to disapprove the zoning permit approval and uphold the appeal because the Board believes a variance is required to convert the garage to habitable living space based on the guidelines in the zone and because a secondary living unit does not meet the conditions established in the Sourland Mountain district.

Ms. Cunningham asked if the Board could expedite the process for Ms. Ricci if she chooses to seek variance approval and suggested the application fees be waived. Attorney Cecil commented that the Board has done completeness and public hearing the same night and this could certainly be considered in this case. With regard to waiving fees, Attorney Cecil stated they can only be waived by ordinance.

Ms. Garrett asked if this structure was a home office for a writer and they wanted a bathroom would it be any different. Planner Slagle stated the ordinance does permit home occupations/offices but there are limitations on the size. Ms. Garrett asked what if the writer is the brother of the homeowner but doesn't reside there. Attorney Cecil stated that scenario does not meet the criteria of a home occupation and would require variance approval.

The motion was unanimously approved by roll call vote.

**Roll Call Vote:** Sherrie Binder: Yes, Kendra Schroeder: Yes, Nancy Cunningham: Yes, Gael Gardner: Yes, Diana Garrett: Yes, Anne Williams: Yes, Jamie Atkeson: Yes

**Old Business**

It was noted for the record that no old business matters were listed on the agenda.

**New Business**

It was noted for the record that no new business matters were listed on the agenda.

**Comments of the Board Members**

There were no comments made by any Board Members.

**Attorney Comments**

Attorney Cecil made no comments.

**Open to the Public**

A motion by Michele Doherty, seconded by Sherrie Binder to open to the public was unanimously approved by voice vote. Seeing no members of the public come forward, a motion by Gael Gardner, seconded by Kendra Schroeder to close to the public was unanimously approved by voice vote.

**Adjournment**

A motion by Sherrie Binder, seconded by Michele Doherty to adjourn was unanimously approved by voice vote.

The meeting adjourned at 9:37 PM.

---

Maria Andrews, Administrative Officer