

**EAST AMWELL
ZONING BOARD OF ADJUSTMENT - MINUTES
Municipal Building – 7:30 PM
October 13, 2009**

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 October 13, 2009 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 29, 2009 issue of the Hunterdon County Democrat, filed in the Township Clerk's Office, and posted on the Bulletin Board on October 6, 2009.

Roll Call and Agenda Review

Present: Sherrie Binder
Nancy Cunningham – Chair
Gloria Frederick
Gael Gardner
Paul Gavzy
Sue Posselt
Kendra Schroeder
Diana Garrett – Alt. #1 (*arrived at 7:35 PM*)
Attorney Waterbury

Absent: Anne Williams – Alt. #2

Agenda Review

Ms. Andrews indicated there was a handout distributed this evening which provided an update on the Scibilia property. She explained that according to Farmland and Open space Administrator Judy Conard, Mr. Scibilia is on track and moving along to get the lot line adjustment completed.

Presentation of Minutes

A motion by Paul Gavzy, seconded by Kendra Schroeder to approve the minutes from 9/8/09 was approved with Gloria Frederick abstaining.

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

Chair Cunningham 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

Robert & Kim Geis – AJ-09-09 – Bulk Variances: 217 Mountain Road – B:30 L:8.01

Present for the application was Robert Geis. He came forward and explained he is proposing to put a 30' x 40' x 12' high pole barn/garage on his property. He stated his lot is an "L" shape and the proposed location for the garage would be in front of his existing dwelling. Mr. Geis explained the garage will be

500 feet off of the road and will not be visible from the roadway. He noted that if he placed the garage in line with the house, it would be situated in a drainage ditch that runs through his property. He indicated he did not want to incur the expense to alter the drainage area. Mr. Geis also informed the Board that he was injured 2 years ago and would like to keep his personal vehicles in his garage for safety in the event of bad weather. The existing garage is situated under the current dwelling and houses Mr. Geis's antique cars. If the new garage is approved, the antique cars will be stored in it.

Chair Cunningham questioned the impervious coverage noting that she believed a variance was required. Attorney Waterbury commented that Mr. Geis provided the limit of impervious coverage, for the zone, on his application but needed to put the actual total number of square feet of impervious coverage that is allowed for his property as well as what is being proposed. She confirmed that based on her own calculations Mr. Geis is over the allowed limit and will require a variance. It was noted that the property is over the impervious coverage limit even before the proposed garage due to the extensive gravel driveway.

The Board also noted that the distances between the proposed garage and the property lines to the west and the rear of the lot should be shown. Chair Cunningham asked if any new impervious coverage would be added for access to the proposed garage. Mr. Geis indicated the garage will be on a dirt area of the lot and there may be an additional 20' of gravel added to access the proposed garage. It was noted this gravel area must also be added to the impervious coverage calculations.

Ms. Posselt clarified that the map shows the driveway running right along the property line. Mr. Geis indicated the driveway is approximately 10' off of the property line due to the telephone poles that are placed along that area of the lot.

Chair Cunningham asked about the existing 10' x 14' shed on the property. Mr. Geis noted that this structure will be removed if the proposed garage is approved.

Chair Cunningham commented that question 1 on page 3 of the application was left blank. She noted that Mr. Geis had previously mentioned some reasons why the requested variances should be granted, but indicated it would be helpful to have the information filled out and made part of the application. Mr. Geis agreed to do so.

A motion by Sue Posselt, seconded by Kendra Schroeder to deem the application complete provided Mr. Geis submit new impervious coverage calculations, request a variance for impervious coverage, show the distances to all property lines relative to the proposed pole barn/garage, show the proposed additional gravel access area for the pole barn/garage and complete question 1 on page 3 of the application was unanimously approved.

Applications for Public Hearing - None

Old Business

Status Update on Scibilia Lot Line Adjustment

It was noted that this matter was previously discussed under Agenda Review.

New Business

Approval of Stover Resolution AJ-09-08

A motion by Sherrie Binder, seconded by Kendra Schroeder to approve the Stover Resolution (AJ-09-08) was approved by roll call vote.

Roll Call Vote: Sherrie Binder: Yes, Kendra Schroeder: Yes, Gael Gardner: Yes, Diana Garrett: Yes, Paul Gavzy: Yes, Sue Posselt: Yes, Nancy Cunningham: Yes

2010 Board of Adjustment Budget

Ms. Andrews commented that the budget was provided in the packets for review. The budget will be listed on next month's agenda for discussion.

Attorney Comments – None

Open to the Public

A motion by Gloria Frederick, seconded by Sherrie Binder to open to the public was unanimously approved. Michael Stover of 68 Back Brook Road came forward and thanked the Board for approving his variance but expressed concern with the high legal fees charged to his escrow account. Attorney Waterbury commented that if Mr. Stover had issues with the legal bills, she was willing to discuss his concerns and determine whether or not an adjustment should be made. She also explained that there is a process in the MLUL for disputing what gets charged to escrows. She indicated the Zoning Board has nothing to do with the process, but rather the Construction Board of Appeals and the Township Committee.

Attorney Waterbury also explained that attorneys would love to draft simple resolutions, but between the requirements imposed by the legislature and the Courts, resolutions must contain explicit details. She addressed Mr. Stover saying, "You're not the first to wonder why the resolution needed to be so detailed—or ask why did it take so much time to prepare?" She indicated Judges often send things back to the Boards when there aren't enough details in the record.

Mr. Stover commented the resolution was written well but that it seemed like it took a long time to do it. He said, "When you get paid by the hour and at your rate, it adds up to a lot of money in a very short amount of time." Mr. Stover agreed to call Attorney Waterbury to discuss the matter further.

A motion by Gloria Frederick, seconded by Paul Gavzy to close to the public was unanimously approved.

Comments of the Board Members

Sue Posselt commented that she was concerned about the Turash escrow. She noted what bothers her is that once an account falls below 30% of its original amount, the Board can only ask for 50% of what the original amount was to replenish it and that doesn't always cover the outstanding bills that may come in. She said, "I wish...whoever makes up these rules would make the amount higher." Ms. Andrews commented that her concern is that the Board asks for \$750.00 for a bulk variance and in some cases one bill can be twice that amount which completely wipes out the escrow account and then some. Attorney Waterbury and Chair Cunningham both commented the percentage guidelines for replenishing escrows are set by law.

Ms. Binder asked if the professionals are conscious of the time they charge to applicants. Attorney Waterbury said, “I am hyper-conscious of it...we are acutely sensitive of it—I’m really not interested in overcharging...” Ms. Frederick commented that she works with Planners and they are really very careful about their billing. She continued saying the time professional’s spend on applications is important because they advise the Boards. Mr. Gavzy suggested this matter be discussed when the professionals submit their yearly contracts. Ms. Posselt indicated it’s difficult for professionals to know how long reviews may take.

Attorney Waterbury explained where a lot of her time gets spent. She said, “It gets spent initially preparing for the completeness hearing when I have to go through the application with a fine tooth comb and I generally tend to find, especially when applicants aren’t represented by lawyers, that they’re asking for the wrong relief, there are variances that they should be asking for that they aren’t asking for, I’m doing recalculations for them—that chews up my time...and the other aspect that takes a great deal of time is the resolutions because the resolution is what explains why they are not complying with the zoning regulations...and the failure to comply with zoning is supposed to be the exception, not the rule...as attorneys, it’s our job to painstakingly detail why in each case, the standards of proof have been met.”

Ms. Binder commented that Attorney Waterbury’s explanation was extremely helpful and she suggested that perhaps some of that information could be contained in the documentation provided to applicants when they come before the Board. Ms. Andrews commented that when an applicant is asked to put up \$750.00 in escrow, the expectation is that their expenses will be covered by that amount.

It was the consensus of the Board to have Ms. Andrews research past escrow expenses and report back to the Board next month.

Adjournment

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

The meeting adjourned at 8:19 PM.

Maria Andrews, Administrative Officer