

Chairman Schwemmer called the regular Meeting of the Board of Adjustment of August 1, 2007 to order at 7:10 p.m.

MEMBERS PRESENT: Elliott Averett, Morris Bauer, Harvey Ort, Craig Schwemmer, Anthony Spina, John Turick
Alternate Members: Frank Baguiao, Dorothy Walter
Members Absent: Graziano
Others Present: Clerk Kesper, Attorney Fraser, Planner Banisch, Engineer Hall

STATEMENT OF COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT

- Adequate notice of this meeting was sent to the Observer-Tribune and the Morristown Daily Record on January 12, 2007 and posted on the Bulletin Board on the same date.

Pledge of Allegiance

MINUTES

1. June 6, 2007 Regular Meeting

Mr. Bauer made a motion to approve the minutes, seconded by Mr. Spina. A voice vote was taken; Mr. Ort abstained, all others were in favor and the motion carried.

RESOLUTIONS

07-19 Harrington – Block 20.10, Lot 42.06 - 6 Catherine Court – R-1 Zone - .92 Acres – Approval of Request for side yard setback variance

The resolution was reviewed.

Mr. Bauer made a motion to approve Resolution 07-19 as presented, seconded by Mr. Spina. A roll call vote was taken:

Ayes: Averett, Bauer, Schwemmer, Spina, Baguiao, Walter
 Nays: None Abstentions: None Absent:
 Ineligible: Ort, Graziano, Turick

07-20 Rosado – Block 43, Lot 62.01 –Stephensburg Road – R-5 Zone –
3.21 Acres – Approval of Request for Steep Slope Variance

The resolution was reviewed.

Mr. Bauer made a motion to approve Resolution 07-20 as presented.
Seconded by Mr. Spina. A roll call vote was taken:

Ayes: Bauer, Schwemmer, Spina, Baguiao, Walter
Nays: None Abstentions: None Absent:
Ineligible: Graziano, Averett (absent 1-3-07) Ort, Turick

The meeting was opened to the public for items not on the agenda. There were no comments from the public and the meeting was closed to the public for items not on the agenda.

APPLICATIONS

1. Colonial Investment – Block 56 Lots 10 & 11 – West Valley Brook Road – R-5 Zone – 4.259 Acres – Request for Steep Slope Variance, Ridgeline Variance – Deemed Complete December 6, 2006 – Previously Heard December 6, 2007 and February 7, 2007, May 2, 2007 -Public Hearing Continued – Expires – September 5, 2007

Mr. Schwemmer announced that the application had been adjourned to September 5, 2007 at the applicant's request.

2. Montgomery – Block 54, Lot 21 – 400 West Mill Road – R-5 Zone – 2.538 Acres – Use Variance and Preliminary and Final Site Plan for mixed use of residential and agricultural nursery – Use Variance Previously Heard May 2, 2007 – Expires September 5, 2007

Mr. Schwemmer announced that the application had been adjourned to September 5, 2007 at the applicants' request.

3. Hvid - Block 47, Lot 15 – 276 Pleasant Grove Road – R-5 Zone – 1 Acre – Request for front yard setback (Porch), side yard setback (garage), insufficient lot size and expansion of a non-conforming structure variances

Mr. Hvid referred to his survey and stated that there is a driveway between himself and the next property which adds 25' to his property line. He explained that the garage would be to the side and violate the side yard setback. He would like to add a front porch, which would violate the front yard setback. He pointed out the septic and well and stated that he has received Board of Health approval. The overhead electric in the back of the house will be put underground. The stairs off the front porch will not go to the front but be off to both sides. His existing driveway goes out into the right of way currently. The existing garage will continue to be used as a garage. He will be putting his antique cars and tractors in the new garage.

The board reviewed the plans.

Mr. Hvid stated that he has rights to use the right of way.

Mrs. Walter asked that there be a shared driveway agreement.

Mr. Hvid stated that he did not want to enter into a driveway agreement because if he was denied access to the right of way he could access the new garage from the driveway off of Pleasant Grove Road.

The board stated that they would not require it because of the alternate access off of Pleasant Grove Road, but it was recommended that it be done.

The meeting was opened to the public for questions and comments. There were no questions or comments and the meeting was closed to the public.

Mr. Averett made a motion to approve the application as presented for a 74' front yard setback and 27' from the side yard in line with the current garage subject to revised plans showing the stairs being removed and the stairs to the side. Seconded by Mr. Spina.

Ayes: Averett, Bauer, Ort, Schwemmer, Spina, Turick, Baguiao, Walter,
Nays: None Abstentions: None Absent: Graziano

Mr. Hall arrived at 7:30 and joined the meeting.

4. Birsner – Block 9, Lot 25 – 138 Mission Road – R-5 Zone – Request for Front yard Setback Variance and insufficient lot size

Ellen Birsner, Applicant

Ms. Fraser sworn in Ellen Birsner

Ms. Birsner stated that she would like to add a master bedroom over the existing first floor garage. Her house was built in the 1700's with additions in the 1800's and in 1990. The entire home is within the front yard setback. She explained the alternative that she looked at and all of them would be within the 100' front yard setback. The second floor will overhang the first floor by several inches, but the existing front porch is still closer to the road. She explained the recent road improvements.

The Board reviewed the plans and noted that the cantilever may extend 2.5' into the front yard setback for a 10.6' setback at the right corner of the property.

Mr. Baguiao made a motion to approve the application for the cantilever may extend 2.5' into the front yard setback for a 10.6' setback at the right corner of the property. Seconded by Mr. Spina.

The meeting was opened to the public for questions and comments. There were no questions or comments and the meeting was closed to the public.

Ayes: Averett, Bauer, Ort, Schwemmer, Spina, Turick, Baguiao, Walter
Nays: None Abstentions: None Absent: Graziano

Mr. Banisch arrived at 7:40 and joined the meeting.

5. Bujtas – Block 15, Lot 43 – 9 Lower Sunset Terrace –R-5 Zone –
 2.89 Acres – Request for rear yard setback, insufficient lot size and
 ridgeline variances

Geza Bujtas, Applicant

Ms. Fraser swore in Geza Bujtas.

Mr. Bujtas stated that they want to expand the dining room (6'), a family room (1.5 story) and covered porch off the kitchen and an accessory garage with workshop/storage area above. He explained the layout of the home.

Mr. Hall reviewed his report of July 24, 2007. He noted that the retaining wall detail should be given to the construction code official. He referred to the ordinance requirements for the mapping of the ridgeline, but he recommended a waiver from this requirement due to the nature of the property. The visibility of the property is the question for the variance. He noted that aerials and photographs have been submitted to support his request of the variance. He did not object to it.

Mr. Bujtas referred to the report he submitted on the ridgeline. He stated that the home is not even viewable from the Lower Sunset. They took photos from Palmer Park and Fairview and the house cannot be seen. He stated that since 1999 he has tried to find the house from other roads and has not been able to see it from traveled way. The photos were submitted and marked exhibit A-1a and b.

The board reviewed the photographs.

Mr. Bujtas reaffirmed the statements in the ridgeline variance document previously submitted to the board.

Mr. Banisch reviewed his letter of July 27, 2007.

Mr. Bujtas stated that the siding is brown cedar with a brown roof and the addition will be the same and will blend into the background. He will do minimal tree clearing as requested by Mr. Banisch.

Mr. Banisch agreed with Mr. Hall that the mapping of the ridgeline is not required because of the nature of the lot.

Mr. Bujtas stated that the septic is 45' off the back of the house. The additions will not encroach on the septic. The sewer line will be exposed under the family room addition.

Mr. Banisch stated that the limit of disturbance around the new garage should be no more than 20'

Mr. Bujtas explained the area he intended to clear the north side for a useable side yard. The clearing would be approximately 70' wide x 40' (from the house). The larger trees would remain and clear the underbrush. It is level and tapers down below the house.

Mr. Banisch suggested that Mr. Hall walk the area and give his approval prior to any clearing.

Mr. Bujtas agreed.

The meeting was opened to the public for questions and comments. There were no questions or comments and the meeting was closed to the public.

Mr. Spina made a motion to approve the setback and ridgeline variances subject to Mr. Hall site walk and a limit of 20' of disturbance around the

new garage architect license and retaining wall detail for the building inspector. Seconded by Mr. Bauer.

Ayes: Averett, Bauer, Ort, Schwemmer, Spina, Turick, Baguiao, Walter
Nays: None Abstentions: None Absent: Graziano

6. Ackerman – Block 30, Lot 22.02 – Schooley’s Mountain Road - R-5 Zone – 5.52 Acres – Request for Steep Slope, Ridgeline and stream corridor variances – Previously Heard June 6, 2007 -Expires September 28, 2007

Erika Ackerman, Applicant
Jeffrey Ackerman, Applicant
Nichols Wunner, Applicant’s Engineer

Leon Hall and David Banisch were sworn in by Attorney Fraser.

Mr. Schwemmer stated that there was a site walk which he and Mr. Spina attended.

Mr. Wunner stated that the driveway location remained the same. He stated that the applicant agrees to a conservation easement at contour 540 and the plans will be revised to show it. The applicant agrees to the lot merger with an easement for the existing driveway. He agreed to get the correct lot number from the tax assessor. The applicant agrees to do additional planting, but they would like to determine that at the time of disturbance and construction.

Mr. Banisch agreed to the tree planning determination at the time of construction, but wanted a note on the plan as well as to the number and types of trees.

Mr. Spina asked that trees be planted along the driveway as well.

Mr. Banisch read the ridgeline ordinance 217-38 F.

Mr. Hall and Mr. Banisch wanted to see the driveway grading and clearing on the variance plan.

Mr. Banisch suggested that when the plan is revised the applicant could add a draft sketch of proposed landscaping.

Mr. Hall stated that the driveway will be 22’ wide when it intersects Schooley’s Mountain Road. This impacts the amount of re-landscaping for the viewshed. He reviewed for the board the amount of grading that is required for the driveway.

Mr. Banisch stated that after all of the disturbance is shown he and Dr. Keller would make planting recommendation.

Mr. Hall stated that he would not object to a drywell under the road as it will save several trees.

Mr. Wunner did not agree to locating the drywell under the road and the plan shows that only one 15" birch tree would be saved.

Mr. Hall agreed with Mr. Wunner and it was agreed that the drywell would not be relocated.

The meeting was opened to the public for questions on the testimony heard this evening. There were no public comments and the meeting was closed to the public.

The application was adjourned to September 5, 2007 at which time the applicant will present a sketch landscape plan and soil disturbance permit. The plans would be revised to show the limits of disturbance including Schooley's Mountain Road.

Ayes: Averett, Bauer, Schwemmer, Spina, Baguiao, Walter
Nays: None Abstentions: None Absent:
Ineligible: Ort, Graziano, Turick

DISCUSSION - CORRESPONDENCE

1. Vouchers

The vouchers were reviewed. Mr. Averett made a motion to approve the vouchers reviewed by the Chairman and found in order and send same on for payment. Seconded by Mr. Bauer. A voice vote was taken; all were in favor and the motion carried.

Mr. Bauer made a motion to adjourn, seconded by Mr. Baguiao. A voice vote was taken; all were in favor and the meeting was adjourned at 9:00 p.m.

Virginia R. Kesper, Clerk