

Chairman Schwemmer called the regular Meeting of the Board of Adjustment of June 5, 2013 to order at 7:00 p.m.

**MEMBERS PRESENT:** Craig Schwemmer, Elliott Averett, Anthony Spina, Robert Bridgman, Frank Baguiao, Morris Bauer  
**Alternate Members:** Dorothy Walter (arrived at 7:05 p.m.) Geoffrey Price  
**Members Absent:** Harvey Ort  
**Others Present:** Secretary Barbara Margolese, Engineer Leon Hall, Attorney Gail Fraser, Planner David Banisch

STATEMENT OF COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT - Adequate notice of this meeting was published in the Observer-Tribune on January 17, 2013 and posted on the Bulletin Board on the same date. Notices were mailed as requested.

Pledge of Allegiance.

### **MINUTES**

#### 1. May 1, 2013 Regular Meeting

A motion was made by Mr. Bauer to approve the minutes of May 1, 2013 as presented, seconded by Mr. Spina. A voice vote was taken; all were in favor. The motion carried.

Ayes: Anthony Spina, Dorothy Walter, Elliott Averett, Morris Bauer, Geoffrey Price, Frank Baguiao, Robert Bridgman Nays: None Abstentions: None

***The meeting was opened to the public for items not on the agenda.***

Mr. Roger Freiday, Jones Lane, stated that when the Planning Board and Board of Adjustment approve applications allowing homes to be built on private roads consideration needs to be given to the amount of damage that large trucks will make on these roads during construction. He noted that there should be a time limit placed on construction permits to be valid. Mr. Freiday stated that a home has been in the process of construction for over one year and a lot of noise has resulted from this construction during that time. He noted that on Memorial Day construction noise could be heard throughout the day. He added that he still feels that the 200 foot notice list is not sufficient for people living on private roads and should be expanded.

***No additional comments were received and the meeting was closed to the public for items not on the agenda.***

### **APPLICATIONS**

2. Carl Hvid – Block 47 Lot 15 – 276 Pleasant Grove Road – R-5  
Front Yard Setback, Side Yard Setback - Applicant had received BOA approval on Sept. 5, 2007; however, time for extension had lapsed and new application is required  
Representative present: Carl Hvid

Mr. Price recused himself during the hearing of this application due to a conflict of interest. Attorney Fraser reminded Mr. Hvid that he was still under oath from the May 1<sup>st</sup> meeting. Ms. Fraser stated that at the May meeting it was noted that Mr. Hvid has applied for relief for front yard and side yard setback distances and that Engineer Hall had noted that Mr. Hvid should have a surveyor check to see if he is exceeding the maximum lot coverage.

Attorney Fraser stated that she had been directed by the Board to draft a resolution with regard to this application for the Board's consideration. Mr. Hall pointed out that Mr. Hvid's property goes to the centerline of the road. Mr. Hvid noted that ordinance 111-46 states that the lot coverage not include the area in the right-of-way. Mr. Hall stated that while the township maintains the road bed the deed goes to the centerline in Mr. Hvid's deed and is to be included in the lot coverage calculation.

It was noted that if the lot coverage for this application will result in over 15% a variance would be required. Mr. Hvid referred to the revised plans dated 6/15/13. The plans were entered into the record as Exhibit "A-1". He stated that the lot coverage was calculated as 19.6% including the right-of-way and not including the right-of-way is 16.9%.

Mr. Hall stated that all documents have been provided this evening with regard to completeness. Ms. Walter stated that because the Board has all of the required documents needed for this application and that the Board should accept this application as complete.

A motion was made by Mr. Bauer to deem Carl Hvid's application as complete, seconded by Mr. Spina. A voice vote was taken; all were in favor and the motion carried.

Ayes: Anthony Spina, Dorothy Walter, Elliott Averett, Morris Bauer, Geoffrey Price, Frank Baguiao, Robert Bridgman Nays: None Abstentions: None

Engineer Hall was sworn-in to provide the Board with testimony. He stated that because the applicant is asking for relief from the lot coverage requirement it has been the Board's policy to require an infiltration device to pick-up any additional stormwater runoff. Mr. Hvid stated that his property is relatively flat and it does not have any drainage problems. Chairman Schwemmer stated that he did not feel that this application should require a drywell. Mr. Hvid stated that his neighbor's house is way in the back and that his roof liters go directly to the back yard. Mr. Hall stated that if the applicant

is proposing 2000 square feet of new impervious surface a concrete drywell would be proposed to handle the extra runoff. Mr. Averett stated that he did not see the need for a drywell.

A motion was made by Mr. Schwemmer to approve the resolution with the amendment regarding the variance approval for lot coverage and noting that the Board is not requiring a drywell for this application based upon the testimony provided by the applicant regarding the anticipated runoff. The motion was seconded by Mr. Spina. A roll call vote was taken; all were in favor and the motion carried.

Ayes: Anthony Spina, Dorothy Walter, Elliott Averett, Morris Bauer, Geoffrey Price, Frank Baguiao, Robert Bridgman Nays: None Abstentions: None

Mr. Price rejoined the Board.

2. The Promised Land (Dr. Ronald Weiss) – Block 34, Lot 42 – 177 West Mill Rd. R-5 Zone -Home Occupation Conditional Use (Medical Office)-Minor Site Plan With Variance – Public Hearing  
Representatives present: Attorney Robert Mielich, Dr. Ronald Weiss, Joseph Schaeffer, P.E.

Mr. Joseph Schaeffer was sworn-in. Mr. Schaeffer gave his credentials and was accepted by the Board as a professional engineer and planner. Mr. Schaeffer stated that the applicant's property consists of a mixed use of buildings and is located in the R-5 Zone. He stated that the proposed home occupation will be in Building "G" as shown on the site plan. Mr. Schaeffer stated that the applicant is requesting a D-3 variance because he is proposing to use 69.5% of the dwelling's space for the home occupation and the ordinance states that a maximum of 25% of the dwelling can be used for the home occupation. Mr. Schaeffer stated that 1050 square feet of the 1500 square foot floor area will be used for Dr. Weiss' medical office. Mr. Schaeffer stated that the applicant would like to have the Board consider this as a temporary non-use of the rental unit in case this home occupation is no longer being used so that it can revert back to a rental unit. He noted that all of the other existing uses will continue on the site.

Mr. Schaeffer stated that the floor area variance can be granted without substantial detriment to the character of this neighborhood. He stated that taking out the rental unit will be bringing this property use more in conformance with the zoning ordinance. He stated that the 31% of the dwelling not being used for Dr. Weiss' office will be used for residential storage and not related to the home occupation.

Engineer Hall asked Mr. Schaeffer if there is to be a farm stand on the property. Mr. Schaeffer noted that a small farm stand may be built on the property. He stated that the 18 proposed parking spaces on the property would limit the size of the farm stand because a bigger stand would require more parking spaces. Ms. Walter stated that the farm stand would be a separate

business and that she would like to see the applicant come back before the Board in the future when the farm stand is proposed.

Mr. Price asked if the basement was considered in the calculations for the percentage of home occupation use. Mr. Schaeffer stated that the basement was not used in the floor area calculations. He said that it is unfinished and only contains the mechanicals for the dwelling. He noted that the basement is accessed by a Bilco door. The definition of floor was given and it was decided that the basement would not be included in the floor area calculations.

Engineer Hall asked about details of the proposed sign. Mr. Schaeffer stated that the sign information is subject to change with regard to the wording content of the sign only.

Mr. Spina asked if parking for the resident farmers (Building "D") is to be provided. Mr. Schaeffer said that it is provided for Building "D". The Board reviewed the parking requirements for this site.

Dr. Ronald Weiss was sworn-in. He told the Board that he plans on living on the farm in Building "A" and that his practice will be in Building "G". He stated that he is a primary care doctor and that he is proposing a medical practice that is based upon lifestyle changes and whole food consumption. Dr. Weiss stated that the medical office will have two exam rooms. He stated that he has two farmers that will provide the produce needed for his practice. Dr. Weiss noted that he received his medical degree from the University of Medicine and Dentistry of New Jersey and that he worked as an emergency room doctor for 17 years and then worked in his own medical practice. He told the Board that this would be a full time medical practice.

Dr. Weiss stated that he will not be providing medical marijuana through his practice. He stated his practice will not be high volume and that he will treat illnesses with a plant based whole foods diet. Ms. Walter stated that Dr. Weiss had previously noted that he would use supplements in his practice. Dr. Weiss stated that the only supplements that he would be advocating for his patients are produce. He noted that the farm already runs a Community Supplemented Agriculture activity. Ms. Walter asked how the needs of the patients are met in the winter. Dr. Weiss stated that root vegetables, cool weather crops and grains will be provided. Ms. Walter noted that she was told that if the doctor plans to have a farm stand it must be closed for three months out of the year. Ms. Walter asked if produce will have to be brought in for his patients if there is not enough from the farm. Dr. Weiss stated that he does not expect to have to supplement the farms produce with outside produce. Dr. Weiss told the Board that his practice is a medical practice that uses primary plant based medicine. He stated that the thrust of his practice will be educating his patients.

Attorney Mielich stated that the ratio of the home occupation to Building "G" is 69% due to the very small size of the building. Dr. Weiss stated that he has no plans to enlarge the building. He said that he only hopes to restore the

other buildings on the site and possibly in the future have a wellness center where people can learn how to prepare these foods.

Mr. Bauer stated that he only has concerns with the long term future of this property. He noted that the size of the farm stand at 600 square feet would require 4 parking spaces and because that is the number of spaces being proposed it cannot be bigger. Attorney Fraser stated that a condition could be imposed that if the farm stand is bigger than 600 square feet that it would trigger another application before the Board.

The meeting was opened to the public for comment. No comments from the public were offered. The meeting was closed for public comment on this application.

Engineer Hall asked if Dr. Weiss would be treating disabled patients. Dr. Weiss said that he would treat disabled patients but because of limited budget he would personally assist patients into the building. Mr. Schaeffer stated that ADA requires that a ramp be provided unless the cost of the ramp does not exceed 20% of the total project budget. He stated that the ramp would cost \$4000 and the project budget is \$8000. Dr. Weiss addressed the need for needles to be disposed in a safe manner. He stated that he does not anticipate using needles in his practice but if he needs to he will dispose of them properly.

Dr. Weiss told the Board that he does not have plans to have more than 1 assistant at this time. He stated that he could see himself possibly having two employees in the future. He said that his office hours will be by appointment only.

Mr. Schaeffer stated that the applicant is asking that the rental property use be temporarily be suspended so that if this proposal does not work out they could go back to renting this structure as a dwelling. The Board did not agree with the idea of temporarily suspending the rental use. Attorney Fraser noted that once the home occupation is approved the use approval will run with the land. Mr. Banisch noted that if the temporary suspension is not pursued the use would be closer to the agricultural nature of the neighborhood. He said that the proposed use promotes an agricultural use in a zone that promotes agriculture.

A motion was made by Mr. Spina to grant the requested variance for exceeding 25% of the dwelling to be devoted to a home occupation and approval of a minor site plan with the conditions discussed by the Board, seconded by Mr. Baguiao. A roll call vote was taken; all were in favor and the motion carried.

Ayes: Anthony Spina, Dorothy Walter, Elliott Averett, Geoffrey Price, Frank Baguiao, Morris Bauer, Robert Bridgman, Harvey Ort, Craig Schwemmer  
Nays: None Abstentions: None

*DISCUSSION - CORRESPONDENCE*

1. Vouchers

A voucher from Gail Fraser for \$183.60 and \$260.10 and from Anderson and Denzler for \$1206.26 and \$1661.73 and Banisch Associates for \$871.00 was reviewed. The motion to approve the submitted voucher was made by Mr. Baguiao and seconded by Mr. Spina. A voice vote was taken; all were in favor and the motion carried.

Mr. Bauer made a motion to adjourn, seconded by Mr. Spina. A voice vote was taken; all were in favor and the meeting was adjourned at 9:06 p.m.

Respectfully Submitted,

Barbara Margolese, Secretary