

Washington Township Board of Adjustment

March 2, 2016

Chairman Spina called the regular Meeting of the Board of Adjustment of March 2, 2016 to order at 7:00 p.m.

MEMBERS PRESENT: Anthony Spina, Morris Bauer, Harvey Ort, Mark Soga, Derrick Thauer, Robert Bridgman, Geoffrey Price,
Alternate Members: Eric Raes, Dorothy Walter
Members Absent: -
Others Present: Engineer Leon Hall, Attorney Gail Fraser, Planner David Banisch, Secretary Barbara Margolese

STATEMENT OF COMPLIANCE WITH THE OPEN PUBLIC MEETINGS ACT - Adequate notice of this meeting was published in the Observer-Tribune on January 21, 2016 and posted on the Bulletin Board on the same date. Notices were mailed as requested.

Pledge of Allegiance

MINUTES

1. **February 3, 2016** regular meeting

Minutes of February 3, 2016 were reviewed. A motion was made by Mr. Bridgman, seconded by Mr. Thauer to approve the minutes as presented. A voice vote was taken and the motion carried.

Ayes: Anthony Spina, Morris Bauer, Mark Soga, Derrick Thauer, Robert Bridgman, Geoffrey Price, Eric Raes Nays: None Abstentions: Harvey Ort, Dorothy Walter

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

RESOLUTIONS

16-06 Patrick Kenney – Block 20, Lot 35 – 264 Schooley’s Mountain Rd. – “C” Variance for lot coverage

The Board reviewed the resolution of approval for Patrick Kenney’s application. A motion was made by Mr. Soga, seconded by Mr. Bridgman to approve the resolution as presented. A roll call vote of the eligible voters was taken and the motion carried.

Ayes: Anthony Spina, Morris Bauer, Geoffrey Price, Eric Raes, Mark Soga, Derrick Thauer, Robert Bridgman. Nays: None Abstentions: None

APPLICATIONS

1. Matthew Leff – Block 54, Lot 8.01 – 13 Middle Valley Road – “C” Variance for proposed in-ground pool – Completeness determination

Engineer Hall stated that he had reviewed the application and it should be deemed incomplete. A motion was made by Mr. Price, seconded by Ms. Walter to deem this application as incomplete. A voice vote was taken and the motion carried.

Ayes: Morris Bauer, Geoffrey Price, Eric Raes, Mark Soga, Derrick Thauer, Dorothy Walter, Harvey Ort, Anthony Spina, Robert Bridgman Nays: None Abstentions: None

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2. Sardeira/Viera – Block 47, Lot 23.05 – 40 North Mount Lebanon Road – R-5 Zone - “C”
Variance for height of retaining wall (existing) built over 6 ft. maximum retaining wall height –
Completeness determination only

Representatives present: Attorney Fausto Simoes, Engineer Luis Gaspar (Marvan Engineering)

The applicant’s attorney, Fausto Simoes introduced himself to the Board along with Engineer Luis Gaspar. He informed the Board that the easement information was described in the deed and is not a separate document. Engineer Hall pointed out that deeds for the conservation easement and the shade tree easement must be submitted and that they are separate from the lot deed and can be obtained from the Morris County Clerk’s office. Engineer Hall stated that the pre-existing topography, prior to the construction of the retaining wall needs to be submitted. Mr. Price noted that Rutgers University has topographical maps that are available that show two foot contour lines. Engineer Hall stated that the applicant must show wetlands and wetlands transition areas on the plans.

Engineer Hall asked Attorney Simoes about the soil disturbance permit application certification that the top soil is less than 100 cubic yards. Mr. Hall asked if the fill behind the retaining wall was considered in that calculation. Mr. Simoes stated that his client, Mr. Sardeira, will testify that only 100 cubic yards of soil was used to build the retaining wall. Engineer Hall stated that the applicant needs to provide the generator of the soil by address and by Block and Lot and that a certification must be submitted signed by the soil generator. Engineer Gaspar noted that because the amount of soil was less than 100 cubic yards, the applicant did not think they needed to provide the generator of the soil.

The Board discussed the fact that the applicant has had an incomplete application before the Board since April 2015. Engineer Hall stated that this application has problems with tree removal, the conservation easement violation, the height of the wall, and possibly a steep slope violation. Mr. Hall stated that he would like a NJ licensed Professional land Surveyor to certify how much top soil, quarry processed stone, and back fill was used for the retaining wall construction, and that this should be signed and sealed by the PLS showing separate calculations.

Attorney Simoes asked the Board for an additional two months for the applicant to address all completeness issues. The Board briefly discussed this request.

A motion was made by Ms. Walter, seconded by Mr. Soga to deem this application incomplete. A roll call vote was taken and the motion carried.

Ayes: Anthony Spina, Morris Bauer, Geoffrey Price, Eric Raes, Mark Soga, Derrick Thauer, Robert Bridgman, Dorothy Walter, Harvey Ort Nays: None Abstentions: None

A motion was made by Mr. Ort, seconded by Mr. Bauer to carry the application until the May 4t, 2016 Board of Adjustment meeting. A roll call vote was taken and the motion carried.

Ayes: Morris Bauer, Geoffrey Price, Mark Soga, Derrick Thauer, Harvey Ort Nays: Anthony Spina, Robert Bridgman Abstentions: None

The Board took a break from 8:10 p.m. to 8:16 p.m.

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3. Schooley's Mountain Road Associates (OMG Burger) – Block 33, Lots 2, 3, and 4 – 141 Schooley's Mountain Road – Use & "C" Variances & Preliminary/Final Major Site Plan – Completeness determination only

Representatives present: Richard Schneider, Esq., Architect Frank Mileto, Joseph Sparone, P.E., and Applicant Steve Bucell

Attorney Schneider introduced himself, the applicant, and the other professionals. Mr. Schneider stated that the site has two existing buildings on it, which the applicant is proposing to demolish. He stated that the applicant is proposing to build an 8440 square foot restaurant which is to be located within the existing area of disturbance.

The Board reviewed Engineer Hall's report dated February 28, 2016. Engineer Joseph Sparone addressed the items noted as incomplete in Mr. Hall's report.

Preliminary site plan

Mr. Sparone asked for a waiver to be able to apply for a NJDEP wetlands Letter of Interpretation. Engineer Hall stated that he was okay with the Board granting a waiver for completeness.

A soil disturbance permit application is needed, and a waiver for the soil borings and test pits has been requested. Engineer Hall stated that the soil disturbance permit must be submitted, and the geotechnical investigation should be provided prior to the first public hearing.

Engineer Hall stated that the 150 foot wetlands transition area line should be provided prior to the public hearing.

Pump station details are to be provided. The applicant provided 6 sets of TWA permits received by the applicant.

It was noted that the applicant has received an exemption #4 from the Highlands Council.

Ms. Walter asked if native plantings could be used on the site. Dr. Keller will be contacted to get a list of native plantings.

A partial waiver for completeness was requested for the developmental impact statement. The applicant is to provide a copy of the Phase I geological study for the site.

Final site plan

Engineer Hall stated that the Washington Township Municipal Utility Authority needs to have a letter sent from their Executive Director regarding this application. Mr. Hall stated that the Board could grant a waiver for completeness, but he is not recommending that the Board take action without the WTMUA letter.

Attorney Schneider stated that he would like to notice for the public hearing for the April 6th meeting, understanding that to do so is at the applicant's own risk.

A motion was made by Mr. Price, seconded by Mr. Soga to deem the application incomplete subject to the waivers being granted as noted. A voice vote was taken and the motion carried.

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Ayes: Morris Bauer, Harvey Ort, Geoffrey Price, Dorothy Walter, Eric Raes, Mark Soga,
Derrick Thauer, Robert Bridgman. Nays: None Abstentions: None

DISCUSSION/CORRESPONDENCE

1. Proposed Board of Adjustment Escrow Replenishment Policy

Attorney Fraser told the Board that she and Planner Banisch and Engineer Hall had taken a look at the applications for variances, and that they are recommending that the Board policy be changed to state that the applicant shall maintain an escrow balance through the issuance of a Certificate of Occupancy in an amount equal to 50% of the original variance escrow or \$1000, whichever is greater. And that for each such application, the Board Secretary shall verify, in writing, to the Board and its professionals, compliance with the 50% escrow balance and the dollar amount thereof, prior to the issuance of a building permit and again prior to the issuance of a Certificate of Occupancy.

A motion was made by Mr. Soga, seconded by Mr. Bridgman to adopt the policy as stated. A voice vote was taken and the motion carried.

Ayes: Morris Bauer, Harvey Ort, Geoffrey Price, Dorothy Walter, Eric Raes, Mark Soga,
Derrick Thauer, Robert Bridgman. Nays: None Abstentions: None

2. Vouchers

A motion was made by Mr. Soga, seconded by Mr. Price to approve the vouchers. A voice vote was taken, all were in favor and the motion carried.

A motion was made by Mr. Soga, seconded by Mr. Thauer to adjourn the meeting at 9:15 P.M. A voice vote was taken all were in favor and the meeting adjourned.

Respectfully Submitted,

Barbara Margolese, Secretary