

Chairman Schwemmer called the regular Meeting of the Board of Adjustment of September 4, 2013 to order at 7:00 p.m.

MEMBERS PRESENT: Craig Schwemmer, Elliott Averett, Anthony Spina, Frank Baguiao, Robert Bridgman, Harvey Ort
Alternate Members: Geoffrey Price, Dorothy Walter
Members Absent: Morris Bauer
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. August 7, 2013 Regular Meeting

A motion was made by Mr. Price to approve the minutes of August 7, 2013 as presented, seconded by Mr. Averett. A voice vote was taken; all were in favor. The motion carried.

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

Non- Agenda Items:

Mr. Warren Fitzpatrick (23 Kim Lane) asked the Board for relief regarding his neighbor's lack of property maintenance and posting of numerous "Not Trespassing Signs" facing his property. He stated that this situation started after the Board approved a variance for an addition on his neighbor's property, at which time he had stated that he opposed the granting of this variance. Mr. Fitzpatrick was told by the Board Chairman that this is matter for the Zoning Official.

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

APPLICATIONS

1. Terence Stone & Laurie Campanelli – Block 52, Lot 9 – 31 Sky Top Road – R-5 Zone
 Variance to allow single family dwelling construction on a non-dedicated street &
 Variances for pre-existing non-conformities (front yard setback, lot width, lot frontage, min. lot size) - Deemed complete on July 3, 2013

It was noted that revised plans had not been submitted and that the applicant had asked to have his public hearing carried to the October 2, 2013 Board meeting. Attorney Fraser announced that the hearing for this application is to be carried to the October 2, 2013 Board of Adjustment meeting without further notice to the public.

3. Sprint Spectrum and JCP&L - Block 51, Lot22.02 – 220 Middle Valley Road- R-5 Zone Wireless communications tower and 4 equipment cabinets -Conditional Use Preliminary & Final Site Plan Application with Variances for Tower Height and Setbacks
Representatives present: Attorney Greg Meese and Architect Frank Colasurdo

Attorney Greg Meese reintroduced this proposed project. He informed the Board that it had been a few months since their last submission because the location of the cell tower was moved so that it is now to be located outside of an environmentally restricted area on this site.

The Board reviewed Engineer Leon Hall's report on this application dated August 30, 2013. Mr. Hall noted that the Development Impact Statement (DIS) Checklist item #10, should be required; however, some items noted in the ordinance description of the DIS could have a waiver requested for them. It was noted for the record that a letter had been received from the Board's Environmental Consultant, Dr. Keller, dated September 1, 2013 recommending that the waiver request for information regarding wetlands delineation be granted. Checklist item #11, a soil disturbance application; compliance with Chapter 164, Soil Removal was addressed. Mr. Meese stated that the applicant does not know how much soil will be moved until the structure is built. He noted that they will be asking for a waiver for completeness only. Checklist item #12, the Key Map was addressed. Architect Frank Colasurdo stated that an aerial photograph of the area had been provided. Engineer Hall stated that the applicant must provide a key map which shows ¼ mile around the site and at a scale of 1 inch equals 400 feet, and includes all items required by ordinance. He noted that physical features need to be identified.

Other Checklist #12 items were addressed. The applicant agreed to provide all existing physical features on the site plans with 200 feet of the site. A landscaping and buffering plan will be submitted and Planner Banisch will review it. The dimensions of the proposed sign will be provided. Engineer Hall stated that based upon the stormwater calculations submitted a waiver for the surface water management plan is appropriate. Mr. Hall stated that at the very least silt fence and seeding specifications should be provided for the Soil Erosion and Sediment Control plan. The required major site plan legend will be provided by the applicant.

The Board addressed the issue of whether an architect can sign-off on plans instead of a surveyor or engineer. It was noted that the law has changed to allow an architect to sign-off on site plans. A waiver for completeness will be submitted for the Affidavit of Completeness. The applicant will be supplying a copy of all easements, agreements, and restrictions on this property.

A motion was made by Mr. Averett to deem the Sprint Spectrum preliminary and final site plan application with variances incomplete, noting that the waiver request for the key map and that the waiver for showing the off-site features within 200 feet of the site and the major site plan legend were not approved and that all waiver requests are to be made in writing. The motion was seconded by Mr. Schwemmer. A roll call was taken; all were in favor and the motion carried.

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

It was noted that a site walk of this property should take place prior to the application's public hearing. This site walk will be coordinated through the Board Secretary.

3. Hackettstown Hyundai – Block 4, Lot 7.01 – 40 Route 46 – C-2 Zone
Request for Amendment to Resolution 11-13 Completeness Determination
Representative present: Mr. Michael Selvaggi, Esq.

Mr. Price and Mr. Bridgman recused themselves from hearing this application due to a conflict of interest.

Engineer Hall stated that a violation letter had been mailed to Hackettstown Hyundai in June 2013 notifying the property owner that both lanes on Route 46 were blocked by a vehicle carrier during delivery. Mr. Hall pointed out that at one point he had seen 57 cars on the site rather than the permitted 20 cars. He noted that the Board may have to have a traffic consultant review the possibility of having a vehicle carrier truck deliver to this site.

Attorney Selvaggi stated that he will relay to his client that the Board deemed the application incomplete. Mr. Hall stated that every day that there are too many cars on the site the applicant is in violation of a condition of the resolution of approval. Ms. Walter asked why the vehicles cannot be delivered to the High Street address as originally told to the Board during the site plan approval process. Mr. Selvaggi stated that the number of cars on the site is a zoning enforcement issue and that the Zoning Officer should go ahead and start issuing a summons for this violation. He stated that he will recommend to his client to withdraw their application.

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

Ayes: Anthony Spina, Dorothy Walter, Elliott Averett, Frank Baguiao, Harvey Ort, Craig Schwemmer Nays: None Abstentions: None

4. Hackettstown Hyundai – Block 4, Lots 1 & 7.02 – 28 & 29- Route 46 – C-2 Zone
Amended Preliminary and Final Site Plan with Variances – Completeness Determination
Representative present: Mr. Michael Selvaggi, Esq.

Mr. Selvaggi stated that this application pertains to Lot 1 which is the former diner location and Lot 7.02 which is the location of the Midas muffler shop. Mr. Selvaggi stated that this application is not for a use variance. Attorney Fraser stated that Lot 1 had been the subject of a use variance and Lot 7.02 was part of that site plan application. Engineer Hall stated that the use of both dealership lots has become intensified and a D3 conditional use variance is necessary. Mr. Hall stated that at the rear of Lot 7.02 Hackettstown Hyundai has cars being parked on the neighboring Honda property.

It was noted that a gravel parking lot has been installed to the rear of Lot 7.02 which is an expansion of the use on this lot. Mr. Selvaggi stated that there will be a use variance for

both lots or for neither lot. Attorney Fraser stated that the applicant has to determine what variance they are going to request. The Board reviewed Mr. Hall's report dated August 30, 2013. Engineer Hall stated that the checklist information is to be provided or a waiver request must be made in writing. He noted that the conditional use standards not being met will require a D3 Use Variance. Mr. Hall noted that Lot 7.02's lot coverage has been expanded with the gravel parking area. Mr. Hall asked why the applicant did not use pavement for the new parking area as the gravel creates dust which would dirty the prepped cars.

Ms. Walter asked why Hackettstown Hyundai preps their cars a great deal of time before the buyer picks the car up. She noted that she had received a coupon through the Val Pack coupons that was for servicing cars at the Hackettstown Hyundai. It was noted that two waiver requests for checklist items were made for this application; a Development Impact Statement and a Highlands approval. Mr. Selvaggi stated that the applicant will be not be requesting those waivers and they will complete both checklist items.

A motion to deem this application incomplete was made by Mr. Averett and seconded by Ms. Walter. A roll call was taken; all were in favor and the motion carried.

Ayes: Anthony Spina, Dorothy Walter, Elliott Averett, Frank Baguiao, Craig Schwemmer, Harvey Ort Nays: None Abstentions: None

The applicant was advised to contact Planner Banisch about this application prior to coming back before the Board. Chairman Schwemmer stated that he and the professionals should be copied on Mr. Banisch's correspondence about this application. Attorney Fraser recommended that the Board Secretary distribute the original use variance approval Resolution for this property to the Board to refresh their memories regarding the original approval.

DISCUSSION ITEMS

1. The Board discussed the process of zoning violations being enforced. The Board members thought that the Zoning Officer position could be more effective with regard to violation enforcement.

2. Vouchers

Vouchers from Banisch Associates for \$734.50, Gail Fraser for \$719.10 and for Habitat by Design for \$480.00 were reviewed. The motion to approve the submitted voucher was made by Mr. Averett and seconded by Mr. Spina. A voice vote was taken; all were in favor and the motion carried.

Mr. Ort made a motion to adjourn, seconded by Mr. Spina. A voice vote was taken; all were in favor and the meeting was adjourned at 9:35 p.m.

Respectfully Submitted,

Barbara Margolese, Secretary