TOWNSHIP OF DENVILLE
BOARD OF ADJUSTMENT
MINUTES

July 16, 2008

The Board of Adjustment of the Township of Denville held its regular scheduled meeting on Wednesday, July 16, 2008. The meeting was held in the Municipal Building, 1 St. Mary’s Place and commenced at 7:00 P.M. Chairperson Arthur Korn presided.

Secretary Probasco read NOTICE OF PUBLIC MEETING.

ROLL CALL:

Present:
Arthur Korn, Roger Speiss, Mark Wilson, James Rodimer, Kevin Scollans,
John Murphy, Frank Passucci

Absent:
Nick Saccamano, Sally Dankos

Prof. Present:
Larry Wiener, Esq., Nick Rosania, Bill Denzler

PURCHASING:
Motion to pay voucher(s) submitted by the Township of Denville dated June 25, 2008 subject to the availability of funds was made by Mbr. Scollans, seconded by Mbr. Rodimer and unanimously approved by all Members present.

Motion to pay voucher(s) submitted by Weiner and McMahon, dated June 20, 2008, subject to the availability of funds, was made by Mbr. Scollans, seconded by Mbr. Murphy and unanimously approved by all Members present.

RESOLUTIONS:

BA/SP/FSP 05-43: WP Hotel Properties, LLC
Block 62101, Lot 2.02, 370 Morris Avenue
Motion to adopt the memorializing resolution for the above-mentioned property was made by Mbr. Murphy and seconded by Mbr. Scollans.

Roll Call: Ayes – Murphy, Scollans, Speiss, Passucci, Korn

BA 07-07 & BA 07-08: Robert J. Bracken
Block 30603, Lot 14 and Block 30604, Lot 5
Motion to adopt the memorializing resolution for the above-mentioned property was made by Mbr. Scollans and seconded by Mbr. Speiss.

Roll Call: Ayes – Scollans, Speiss, Passucci, Korn

BA 08-10: The MacCormack Agency
Block 50306, Lots 1 & 184, 18-20 East Main Street
Motion to adopt the memorializing resolution for the above-mentioned property was made by Mbr. Murphy and seconded by Mbr. Scollans.

Roll Call: Ayes – Murphy, Scollans, Korn

PUBLIC HEARINGS

ABA/SP06-30: Arlene Yuliano (Carried from May 21, 2008 hearing)
Block 40811, Lot 505
15 Hilltop Trail
Virginia S. Ryan, P.C. (154 South Livingston Avenue, Livingston, NJ 07039) provided legal representation for the applicant, Arlene Yuliano. Applicant is proposing to construct a new dwelling. Seeking variance approval for front and rear yard setbacks.

Ms. Judith Cook, (2 Openaki Road, Randolph) was present and sworn in as a professional witness. Ms. Cook is a full-time realtor with Coldwell Banker with over twenty years of experience. Using photos (Exhibit A-1) Ms. Cook testified to the styles, size and number of floors of the other homes in the surrounding area.

Chairman Korn opened to questions from the professionals.

Mr. Denzler questioned if any of the homes in the photographs had requested variance relief of Ms. Cook. Ms. Cook responded that she did not.

Chairman Korn opened to questions from the board.

Mbrs. Murphy, Scollans, Speiss, Wilson and Passucci had none. Mbr. Rodimer inquired about the size of property indicated on the plans as being .048 but that the exhibit indicates .091 acre. Ms. Ryan deferred to the planner’s testimony would address. Chr Korn inquired about what
differentiates this application from the last. Ms. Cook indicated again that Mr. Smith would
address the changes in his testimony.

Chr. Korn commented on the size of the homes in the neighborhood and that some were much
smaller that the proposed home. Ms. Cook confirmed that the neighborhood is comprised of
large, medium and bungalow sized homes.

Mr. Denzler inquired about the lot sizes of the homes photographed in the exhibit. Ms. Cook
responded that she believes they do have this information.

Mbr. Korn opened to the public for questions.

Ms. Marge Kleiner (Longview Trail) present and sworn in. Ms. Conner was a notified property
owner. Ms. Kleiner wanted to point out that two of the photographed homes were recently
constructed on Longview Trail and were not always there. Ms. Cook was aware, as the photos
taken were all of recently constructed homes.

Chr. Korn reminded the public that this was the time for questions only and there would be time
later for comments from the public.

Ms. Diana Yokitis was present and sworn in. Ms. Yokitis was wondering about the hotel and the
height requirement.

Ed Buzak, Esq. indicated that this was limited to specific questions at this time. Ms. Yokitis had
no further questions.

Chr. Korn closed the public portion of the hearing for questions.

Mr. Steven Ira Smith, (320 Route 10 West, Randolph) Licensed professional planner and
professional land surveyor and principal of Jaman Engineering. Mr. Smith was present and
sworn in as a professional witness. Mr. Smith reviewed the Plot Plan (Exhibit A-2) Township of
Denville Tax Map Page 408, Block 40811, Lot 505. He indicated that on sheet 1 the proposed
dwelling is shown in blue, the proposed driveway is shown in yellow, the proposed trench drain
that flows into a proposed dry well in orange with the remainder of property highlighted in green.

Mr. Smith reviewed the requirements for variances for a lot in the R-4 zone and pre-existing non-
conforming conditions. The lot area requirement is 5,000 sq. ft. and applicant has 3,653 sq. ft.
The lot area within 100' of street right of way requires 5,000 sq. ft. and applicant has 3,653 sq. ft.
The requirement for front yard setback is 25' and applicant is proposing 19'. The rear yard
setback requires 35' and applicant proposes 20.20' requiring a variance. The lot width at the
building setback line requires 50' and applicant proposes 47.55' also a preexisting non-
conforming condition. Minimum lot depth requirement of 100' and applicant proposes 79.29' also
a preexisting nonconforming condition. Building height 35' up to 2.5 story maximum requirement.
Will explain the height of proposed structure during testimony.

Mr. Smith stated that this is a pre-existing substandard lot and referenced Denville Township
ordinance 19-5.710 section on existing plotted lots. In order to comply with the minimum
setbacks in this zone the home would need to be 12.5' in depth. He further reviewed the
application changes including the original footprint on the house was 32' in length and 36' in
depth. The home was shortened by 1' from the original submission and includes a covered
porch. The single driveway increased to a double driveway to provide for three off-street parking
spaces. Also proposing replacing the existing natural berm with concrete curb with a drop curb or
curb cut along driveway. A proposed trench drain along driveway and roof drains to tie into dry
well. From the initial submission there was also soil erosion and sediment control plan showing
silt fence for dust control and construction of crushed stone blanket.

Mr. Smith indicated that the originally proposed 1,804 sq. ft. of living area dropped 1,595 sq. ft.
by removing the second floor living room and adding a vaulted ceiling off the foyer. The house
has been lowered by 2' from 29.7' to 27.7', reducing the viewable building mass from the road by
814 sq. ft. to 750 sq. ft. Basement floor has been lowered to 4.5-5' below the grade in the back
eliminating the potential for a walkout basement. The red line reflects the actual decrease of
viewable finished grade.

The ordinance measures building height based upon average grade around the house to the mid-
point of the highest roof. Based upon the ordinance, the building height is 25.51'. Based upon
the ordinance the allowable would be 10' higher or 20' for a tudor home.

In closing, Mr. Smith indicated that this is an isolated sub-standard lot with no adjacent land to be
acquired. Ms. Ryan confirmed that letters were sent to neighboring property owners.

Mr. Smith reviewed A-4, same as A-1 plot plan without the revisions dated 12/07/06 and
discussed setbacks. Further review of types of homes in the area and number of floors (i.e. 1,
1.5 story, bi-levels, capes, 2 story, etc.) using an enlargement of Denville tax map entered as A-
5. The size and types of the homes in the area was discussed to support the size of the
proposed home as being reasonable.
Ms. Ryan had nothing further to add.

Chr. Korn asked for comments from the professionals.

Mr. Rosania stated that he met with applicants' engineer several times and brought the plans up to date. The changes include drainage improvements, soil erosion control enhancements, curbing and driveway widening. The size of the home has been reduced which was the largest concern. No further comments to add.

Mr. Denzler inquired about changes to grading and what the purpose of the two sets of sliders is shown on the architectural. There cannot be a deck.

Mr. Smith indicated that there will be no deck, no covered roof, portico and there will also not be a trellis.

Mr. Weiner indicated that if there should be approval there should be a condition for no deck or any covering. This will prevent the applicant or any successor in title from returning for a variance.

Mr. Smith agreed to have this as a condition of approval.

Mr. Denzler inquired about changes to grading and what the purpose of the two sets of sliders is shown on the architectural. There cannot be a deck.

Mr. Smith agreed that removal of the wall can be removed and regarding can also be a condition of approval.

Chr. Korn inquired about there being two walls.

Mr. Denzler indicated that the one in the middle goes, the one on the property line can remain.

Mr. Denzler clarified if it was a concrete or block curb.

Mr. Smith confirmed that the detail indicates a granite block curb.

Mr. Denzler inquired about existing platted lots referenced earlier, states that the lots cannot be in common ownership prior to 1964 date.

Ms. Ryan stated that a prior title search was submitted with the original application.

Mr. Weiner’s recollection that the answer had been no.

Mr. Denzler indicated that the setback variances were correctly stated. From a planning perspective the size of home falls in the medium range but the lot is one of the smallest. Questioned the appropriateness of the house on the size of the lot.

Mr. Smith responded that compliance with side yard setbacks and meet or exceed front yard setbacks with two adjacent lots and based upon development patterns in the area it’s appropriate sized home for the lot.

Chr. Korn opened to questions from the board.

Mbr. Murphy liked the reduction of the size home but still had concerns about side yard setbacks. Also inquired about the basement area that was originally not going to exist and whether they would be building under the garage.

Mr. Smith indicated other homes in the area appear to be larger. The basement would be approximately the same size as the first floor at 726 sq. ft. Mr. Smith confirmed that they will not be building underneath the garage. Entered an aerial photograph A-6 to reflect other small lots.

Mbr. Scollans inquired about the 8’ height for the basement ceiling, how if it was measured to the joist and if there were plans to finish it.

Mr. Smith indicated that it was 9’ from finished first floor to stand on basement floor with no plans for finishing.

Mbr. Rodimer inquired about the proposed driveway going over the property line. He also inquired about impervious coverage and runoff concerns to lots 508 and 509.

Mr. Smith stated that there is approximately 6’ from the property line to the curb line. He responded that total impervious coverage (Sheet 3) shows approximately 1,500 sq. ft. or 41% unrestricted by ordinance. Anticipates less water runoff than currently.

Mbr. Speiss inquired if Mr. Rosania concurred.
Mr. Rosania agreed there would be less runoff.

Mbrs. Wilson and Passucci had no questions.

Chr. Korn had no further questions. For the record the rear yard setback for the proposed home is 20.2’ compared to lot 508 at approximately 3’ and 506 at approximately 19’.

Chr. Korn opened to the public for questions and comments.

Ms. Marjory Kleiner (43 Longview Trail) was present and sworn in. Concerned with the enormous houses and concern for the neighborhood.

Mr. Jeffrey Case (30 Longview Trail) was present and sworn in, was a notified property owner and lives directly behind. Was asked to sign a paper to give up rights to the undersized lot when he purchased his home. Think it’s a beautiful home but too large for the lot and concerned about runoff.

Mr. Andrew Alpert (22 Hilltop) was present and sworn in. Living across the street and over one. Voiced substantial concerns about runoff issue. Agrees it’s a nice home but still too large for the lot. Voiced concerns about the current and future condition of the property being overgrown, having trash and not being maintained.

Mr. Anthony Molinaro (18 Hilltop Trail) was present and sworn in. Residing at the property across the street from the subject property. Stated he was told it was an unbuildable lot and that has two kids. Voiced concerns about the construction, water runoff and type of person moving in. Feels the town is going down hill and the board has the power to decide if this home gets built. Plans on moving if it is built.

Ms. Diana Yokitis (17 Hilltop Trail) was present and sworn in. Lives in the smallest house in the neighborhood, next door to the subject property. Indicated that received letter today, for fair market value of the property at $225,000.00. Had discussed purchasing it way back but not at this price. Doesn’t want a home towering over hers. Stated the applicant cut down her bushes and installed a white vinyl fence.

Ms. Virginia Ryan understands the neighbors concerns about the current property being an eyesore. Building something on the lot will improve the area. There is no impervious coverage statute, the proposal is well within the height requirements. Has confidence in the board and professionals that any issues can be worked out.

Chr. Korn opened to comments from the board for closing.

Mbrs. Speiss and Wilson thought the proposed home was in character with the neighborhood and the engineer’s assurances that runoff will not be a problem and would support the application.

Mbr. Passucci was concerned with drainage and run-off but satisfied with professional comments.

Based upon the concerns shared by the board and the public Mbr. Murphy indicated that although the applicant has gone a long way, it’s mostly smoke and mirrors and he cannot support the application.

Mbr. Scollans appreciates the significant compromises. Believing them to be both realistic and objective, he supports the application.

Mr. Rodimer had a problem with the application and proposed dry wells to Lots 509 and 508. He stated he cannot support it.

Mbr. Korn stated he would rely on Mr. Rosania’s opinion that there would not be water problems. He was not thrilled with the proposal but would support it for lack of an alternative.

Larry Weiner, Esq. indicated that a modest patio of pavers could be subject to the Township Engineer. It should be a non-impervious patio and not to exceed 10’ of property line.

Mbr. Speiss made a motion to approve the application with the following conditions: Removal of deck, trellis, sliding doors on rear of house and stone wall through middle of property. Additionally, soil erosion is to be enhanced with hay bales and fabric on silt sweep.

Mbr. Korn opened this hearing to the public and seeing no one closed the public portion.

A motion to approve this application was made by Mbr. Speiss and seconded by Mbr. Scollans.

Roll Call: Ayes – Speiss, Scollans, Wilson, Passucci, Korn

Nays – Rodimer, Murphy
BA 08-18: Linford & Linda Hackman
Block 51002, Lot 54
38 Garwood Trail
Linford and Linda Hackman (38 Garwood Trail) were present and sworn in. Applicant is proposing to construct an addition, requiring approval for “C” variance relief for front yard setback.

Mr. Hackman reviewed the survey. He explained that the shaded area indicates the proposed front of the house would be pushed out 4.5’ to extend the existing dining area from 6.5’ wide to 11’ wide. The proposed addition would provide a roof over front porch for the safety benefit of ice and a small pantry and laundry area. The total increase would be approximately 180 sq. ft.

Mbr. Korn opened to the public hearing to the professionals.

Mr. Rosania indicated that the proposed was a modest addition, that there were no engineering issues and the front yard setback looks diminimus.

Mr. Denzler commented for the record that there is a requirement of 25’ variance distance for the zone, the proposed addition reduces that to 22.7’ However, because Garwood is only 20’ right of way in a lake community. It’s still 10’ under the minimum. So it’s an assumed setback of 17.7”

Mbr. Korn opened to the board for questions.

Mbr. Speiss thought the property was kept beautifully and had no questions.

Mbr. Wilson inquired about the 27.2’ including the steps. Mr. Denzler indicated that the steps don’t count if not roofed.

Mbr. Passucci confirmed that there would be no enclosure on the porch just an overhand.

Mbr. Murphy agreed the property is beautifully maintained and that the proposed would not have a big impact to the neighborhood. He inquired about the utilities for gas and air conditioning unit on the corner of the house. Mr. Hackman indicated they would be relocated.

Mbr. Scollans stated it was a nice plan that makes sense and has no problem.

Mbr. Rodimer stated it looks wonderful and had no questions.

Mbr. Passucci confirmed that there would be no enclosure on the porch just an overhand.

Chr Korn agreed and had no further questions.

Chr. Korn opened the hearing to the public and seeing no one closed the public portion.

A motion to approve this application was made by Mbr. Speiss and seconded by Mbr. Rodimer.

Roll Call: Ayes – Speiss, Rodimer, Scollans, Murphy, Passucci, Wilson and Korn.

BA 08-13: Raia Self Storage Denville, LLC
Block 62101, Lot 4
300 Morris Avenue
Mr. Thomas Di Biasi, Esq. of Di Biasi Law (345 Centre Street, Nutley, NJ 07110) represented the applicant seeking final site plan approval. Mr. Di Biasi was present and sworn in. Applicant is proposing to construct a three-story high self-storage facility and associated improvements for off-street parking/storage for vehicles and fence enclosure with automatic access gate.

Mr. Di Biasi made a couple of introductory comments and stated that there are ongoing discussions with the township regarding the easement for passive and active recreation. Mr. Di Biasi then addressed the status of the letter of interpretation (LOI) in Mr. Denzler’s report, dated June 2, 2008, page 2. He stated that a LOI exists through December and Thomas Graham also already made a request for extension dated May 12, 2008. He confirmed that the five truck limit from the prior meeting, still stands.

Edward J. Buzak, Esq. swore in all three of the applicant’s professional witnesses. Mr. Lawrence Raia, principal of Raia Self-Storage; Thomas F. Graham, PE of Dykstra Walker Design Group (21 Bowling Green Parkway, Suite 204, Lake Hopatcong, NJ 07849) (A-1 Application to MC DEP) and Paul Bauman, PE and PP (5 Norwood Terrace, North Caldwell, NJ 07006).

Mr. Tom Di Biasi asked Mr. Tom Graham, PE respond to Mr. Denzler’s report of June 2, 2008. Mr. Graham addressed the comments regarding the LOI, a copy of the application has been provided as A-1. He stated that the ingress and egress of the site will be through the existing curb cut flowing counter-clockwise to their units. Access aisles are at least 24’ wide. Parking spaces along the perimeter on all four sides of the building. Circulation is efficient and no problems with conflicting traffic patterns. Truck parking will be along the front parallel or in parking spaces to gain access. Existing tenants will have access to gate. Believes this is a sound and safe plan from an engineering perspective.
Addressed site lighting and stated there will be lights at four man doors and no lighting over the individual garage doors.

Indicated that the storm water management report demonstrates compliance with state requirements for runoff, water recharge and quality. Proposing a series of inlets and pipes to storm water management basin to control flow and allows infiltration for water quality.

Stated will be in compliance with all issues detailed in Mr. Rosania’s report dated July 14, 2008.

Mr. Rosania indicated that the lighting is modest, the soil movement is significant but typical of a project this size. He stated that a meeting between the applicant and fire chief will need to take place to discuss fire lanes with appropriate markings.

Mr. Graham indicated that they could accommodate Mr. Di Biasi stated acceptance of this as a condition of approval.

Chr. Korn inquired about the soil movement of 3,600 cubic yards onsite and possible affects to the wetlands and the need.

Mr. Rosania indicated that this site is out of the wetlands and flood zone so there is no effect.

Mr. Raia commented on the import of soil for underneath the paving and nothing beyond the buffer zone indicated. Low impact disturbance 2.5 acres of 7.7 acres.

Mr. Graham marked the site plan as Exhibit A-2.

Mr. Denzler stated that the application is consistent with the use variance application. Architectural drawings have been further embellished and he has no concerns.

Chr. Korn opened to the board for questions.

Mbrs. Murphy, Scollans, Rodimer, Speiss and Passucci had none.

Chr. Korn opened for questions. There were no further questions from the board or professionals.

Mr. Paul Bauman, the applicant’s planner discussed the variance request due to a 20’ wide drainage easement that runs through the driveway area. Relocating the sign from the driveway and easement area is a better location to avoid ever having to relocate for further enhancements. Bringing it out 6’ to touch the easement but not included in the easement. No disturbance. Has no affect on line of sight on either Enterprise or Morris Avenues.
Mr. Denzler has no problem. It’s a modest sign and the variance is diminimus.

There was a brief discussion regarding the New Jersey State League of Municipalities. Mr. Di Biasi indicated that the COAH regulations are in flux and respectfully repudiated the COAH calculation sample. Stated that the applicant will be subject to COAH as the rules are clarified.

Chr. Korn opened to the public, seeing no one, closed the public portion.

Chr. Korn opened to the board for questions. The board had no questions.

Mr. Speiss suggested conditions of approval that the fire lanes to meet with fire chief’s approval, soil movement purity certification, truck routes and hours of operations to meet with Township Engineer’s approval, landscaping to meet with Township Planner’s approval, sidewalk to be extended along entrance way and existing sidewalk to remain and granting variance for sign.

A motion to approve this application was made by Mbr. Speiss with conditions and seconded by Mbr. Murphy.

Roll Call: Ayes – Speiss, Murphy, Rodimer, Scollans, Passucci and Korn

OLD BUSINESS:

The resolution for Herbert & Elaine Trillich, Block 50801, Lot 4 at 432 Diamond Spring Road (BA 08-14) was discussed. The resolution for the variance to construct a 12’x18’ deck was adopted on June 18, 2008. As indicated by the June 4, 2008 minutes the dimensions of the proposed deck would be 12’x20’ and not to exceed the current footprint of 27’. It was unanimously agreed by the board members that the resolution would be corrected to 12’x20’ by means of the July 16, 2008 minutes.

ADJOURNMENT: Motion to adjourn was made by Mbr. Murphy and seconded by Mbr. Scollans.

Denean Probasco, Board Secretary Date Approved