TOWNSHIP OF DENVILLE  
BOARD OF ADJUSTMENT  
MINUTES

September 3, 2008

The Board of Adjustment of the Township of Denville held its regular scheduled meeting on Wednesday, September 3, 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: Roger Speiss, Mark Wilson, Nick Saccamano, Sally Dankos and James Rodimer

Prof. Present: Elyse Landano-Hubbard, Esq., Nicholas Rosania, PE, PP

MINUTES:

August 6, 2008
Motion to adopt the minutes as submitted was made by Mbr. Saccamano, seconded by Mbr. Dankos and unanimously approved by all Members present and able to vote.

PURCHASING:
Motion to pay voucher(s) submitted by Denzler & Associates dated August 4, 2008, by Weiner and McMahon, dated August 27, 2008, and the Township of Denville dated July 16, 2008, subject to the availability of funds, was made by Mbr. Scollans, seconded by Mbr. Saccamano and unanimously approved by all Members present.

CORRESPONDENCE:

RESOLUTIONS:

BA 08-19: Richard & Linda Zrike  
Block 60506, Lot 7  
15 Wetmore Drive

BA 08-22: William J. Heilig  
Block 61005, Lot 27  
66 Cedar Lake West

BA 08-24: Barbara A. Jones  
Block 60701, Lot 1  
25 Harriman Avenue

Motion to adopt the memorializing resolutions for the above-mentioned properties was made by Mbr. Dankos and seconded by Mbr. Wilson and unanimously approved by all Members present.

Roll Call: Ayes – Dankos, Wilson, Speiss, Saccamano

PUBLIC HEARINGS

BA 08-17: Ronald & Joanne Leonard  
Block 61302, Lot 116  
173 Cedar Lake East

Applicant is proposing to construct a new dwelling requesting variance relief for steep slopes, front, rear and side yard setbacks.

Marc G. Walker, Principal of Dykstra Walker Design Group (21 Bowling Green Parkway, Lake Hopatcong) was present and sworn in. The applicant, Ronald H. Leonard (175 Cedar Lake East) was also present and sworn in. Mr. Walker reviewed the site plan (Exhibit A-1, Sheet 1 of 2) of the subject property. The existing dwelling is highlighted in yellow and the proposed plan is indicated in grey. The dwelling is set substantially below the street level and has common decks and patios along the property line. Mr. Walker explained that the rear footprint of the proposed house currently exists and the intention is to preserve this rear existing footprint. The lot is 10,625 sq.ft. where the requirement is 15,000 sq.ft. There is a lot width requirement of 100’ and the lot is only 50’ wide. There is a pre-existing, non-conforming front yard setback of 31.8’ where 35’ is required. Side yard requirement of 17’ with 2.7’ on the south and 9.5’ to the north for a total of five non-conformities, two of which are on the lot area. He indicated that a letter
(Exhibit A-3) was sent to the neighboring property owner of 165 Cedar Lake East, (Lot 19, Block 61302) on June 1, 2008. Only a verbal response to the letter was received. Applicant was unable to purchase adjacent property. The existing home will be removed.

Mr. Walker explained that the key element of the proposed home was a garage, due to limited turning area on the street. The home, currently sitting below the level of the street will be raised to decrease the steps into the home. The alternative of moving the home towards the lake would increase the slope and make the home appear massive.

The side yard setbacks have been increased to what exists today. To the north there is currently 9.5' between the existing house and Mr. Leonard’s home has been increased to a 10' side yard setback. The 2.7' side yard setback to the south has been increased to 4.7'. There is a substantial distance to next dwelling on the south side. Although there is no permeable coverage requirement in Denville, it was analyzed and there would be a slight increase of 542 sq.ft. impervious coverage for the building and driveway. A 500 gallon dry well in the front yard has been proposed to handle the flow of water and mitigate any increase in runoff. The dry well would have an overflow to release storm water in case the dry well cannot accommodate.

Mr. Walker discussed the disturbance and Slope Analysis (Exhibit A-2, Sheet 2 of 2). He explained that the subject property is exempt from the slope ordinance having only a minor topographic deviation. With a provision of not greater than 10% lot area the applicant has steep slopes lot area of only 5%. Only slopes greater than 25-30% and greater than 30%. There is a slope disturbance of 536' sq. in excess of 25%. The lower portion of the exhibit is proposed and upper portion of the exhibit depicts the existing conditions. Chart to the right “proposed slope summary” indicates the proposed and existing areas before and after development. Each of the slope categories has been reduced leaving a flatter more manageable slope. With two homes on the easterly side sitting substantially higher and having access from Florence, there is no impact to the neighbors as a result of this project. By leaving the vegetation in the rear there will also be no impact on the lakeside.

Chr. Korn opened the hearing to the professionals.

Nick Rosania, Township Engineer addressed Ron Leonard as it related to results of a field site survey. Mr. Leonard indicated that the home was built in 1922 on the ground with wooden posts. In order to install a vapor barrier the floorboards will need to be removed. Structural renovations will be required. Mr. Leonard stated that the proposed subject property dwelling would have a similar curbside appearance to the applicant’s home at 175 Cedar Lake East.

Mr. Rosania indicated that he reviewed the application and overall found no downsides. The applicant would need to meet any requirements of the Morris County Soil Conservation District, including the new septic design.

Chr. Korn inquired about Affordable Housing regulations opened the hearing to the board. Mr. Walker agreed that the applicant would comply.

Mbr. Spiess inquired about the 500 gallon seepage pit and if the applicant would work with the Township Engineer during construction to address if anything different was required.

Mbr. Wilson applauded the effort made on this application.

Mbr. Saccamano had no comments.

Mbr. Passucci was satisfied.

Mbr. Murphy inquired about new footings requiring a need for blasting. Mr. Leonard indicated that a rock pounder would perform any rock removal.

Mbr. Murphy inquired about roof height and indicated that at 31' it would appear substantially higher than the lake. Mr. Walker responded that the home is substantially further from the lake than the home next to it.

Mbr. Murphy was pleased to hear that the majority of vegetation was to remain. He indicated that it wasn’t clear on whose property he was walking during his site survey and suggested that property lines and easements should be addressed moving forward.

Mbr. Dankos was curious if the area beneath the garage was to remain unexcavated. Mr. Leonard indicated that it would not increase the living area of the house and would remain either a tool and work room or be filled with soil to hold the driveway.
Mbr. Scollans indicated that he was impressed with the Mr. Leonard's approach and was in favor of the application.

Mbr. Rodimer referenced the exemption of the steep slopes and deferred to the board attorney. Mr. Weiner indicated that it would be a condition of approval.

Chr. Korn inquired about parking for the home and through traffic. Mr. Walker indicated that there would be four off street parking spaces for the new home and confirmed that the home was at the end of a dead end street. Mr. Rosania confirmed that there are no plans to extend the street.

Chr. Korn opened this portion of the hearing to the public and seeing none, closed the public portion.

A summary of the conditions of approval would be to increase the water size from 3/4" to 1", that the applicant would be referred to the Morris County Soil Erosion Control District for approval, that the health officer would review the septic system, that there be a contingency on the steep slopes if not exempt and if it was determined, that there would be a COAH obligation.

A motion to approve this application was made by Mbr. Scollans and seconded by Mbr. Speiss and unanimously approved by all Members present.

Roll Call: Ayes – Scollans, Speiss, Wilson, Rodimer, Dankos, Murphy, Saccamano, Passucci, Korn

BA 08-25: Rudolph & Lorraine Nemeth
Block 60505, Lot 6
369 Diamond Spring Road

Rudolph & Lorraine Nemeth (369 Diamond Spring Road, Denville) were present and sworn in. The applicant reviewed their proposal to construct an addition with a request for variance relief for a 12.8’ side yard setback from the required 17’. The addition would provide an additional bath and walk-in closet. The neighbor, Diane Byrd designed the plan for the Nemeth’s. Ms. Byrd is also the only neighbor who would be impacted by the approval of this variance request.

Nick Rosania, Township Engineer indicated that the lot is oversized with skewed property lines. He stated that this application has no engineering matters involved.

Mbr. Murphy inquired about the air conditioning unit being at the rear of the house. Mr. Nemeth confirmed.

Mbr. Dankos indicated that she had no questions and the home was in a lovely area.

Mbr. Scollans had no questions and indicated that the applicant was very forthcoming with information.

Mbr. Rodimer indicated that the plan was nice and that he had no questions.

Mbrs. Speiss, Wilson, Saccamano and Passucci had no further questions.

Chr. Korn commented that the Nemeth’s have a well kept home.

Chr. Korn opened this portion of the hearing to the public and seeing none, closed the public portion.

A motion to approve this application was made by Mbr. Speiss and seconded by Mbr. Dankos and unanimously approved by all Members present.

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

BA/SP/MS/FSP 08-02: TD Commerce Bank
Block 31401, Lot 16
Route 53 & Luger Road

Douglas Henshaw, Esq. of Porzio, Bromberg & Newman representing the applicant was previously sworn in and remains under oath.

Mr. Henshaw indicated that there would be three witnesses testifying on behalf of Commerce Bank, the Site Engineer, Traffic Engineer and Professional Planner.

Mr. Henshaw reviewed the applicant’s proposal to construct a bank requiring preliminary/final site plan approval with conditional use variance relief for signage. The subject property is located at the corner of Luger Road and Rt. 53. The current brick
building resides on 3.3 acres. The proposal would replace one acre of pavement with grass and plantings.

Glen Savino, Site Engineer of Langan Engineering & Environmental Services (619 River road, Elmwood Park) was present, sworn in and accepted as a professional witness. Mr. Savino provided testimony using the Grading and Drainage Plan (Exhibit A-1). Showing the existing building occupying 37,000 sq. ft. with almost two acres of impervious coverage including the building totaling approximately 60% of the entire site. A portion of the site is not shown located up Luger Road. There are currently two entrances; one will be eliminated as part of this application. The proposed building will be significantly smaller in size located at a further distance from the road and residences.

The proposed bldg. is 3,846 sq. ft. approximately one-tenth the area of the existing building. The portion of the building to be demolished is the portion located closest to the residence. The building footprint and the permeable coverage will be significantly reduced. A review of the Landscape and Signage Rendering Plan (Exhibit A-2) showing the building in tan, lawn in green, proposed vegetation in dark green with pavement area in light grey. Extensive landscaping is proposed with a staggering of different species of evergreens to provide screening. The existing 6’ fence along the property line will remain. The landscaped berm will prevent visibility of the fence. There are the required 26 parking spaces with an additional “bank” of 21 parking spaces to be green now and if additional parking is necessary, can be paved later.

Glen Savino reverted to Exhibit A-1, draining drawing for testimony. The dashed lines are collector pipes and the dark boxes are storm inlets. The site has been graded and designed to flow into grass areas. All of proposed parking will be directed into controlled inlets. Mr. Savino continued his testimony with a Lighting Plan (Exhibit A-3) The proposed lights are shown in a dark black box marked A or B. Both are 18’ high with 400 watt metal halide lights. The difference between A and B lights are the hung shields on fixtures to prevent lights from reflecting backwards towards the residences.

Doug Henshaw, Esq. spoke to the conditional use of the bank being in compliance with every condition imposed with the exception of the signs. All but three signs are directional signs, although the ordinance doesn’t differentiate between the type of signage being directional or for advertising.

Mr. Savino indicated that several signs have been removed but the plan still reflects 16 signs to avoid confusion. There are three advertising signs, the first is an illuminated pylon sign approximately 15’ high located on the corner of Luger and Main Streets, the second is an illuminated “O” logo located on the building to the left of the entrance, the third is a Commerce Bank sign with the “C” logo and is located directly to the entrance of the building on the façade. The rest of the signs are directional signs on the site, including handicap parking, drive-in, ATM, STOP and Do Not Enter signs.

Mr. Rosania indicated that regulatory signs are not counted as part of the three signs. Recommendations were made on lighting. He commented that the impervious coverage is reduced. He suggested that the roof could be a condition of approval with possible seepage pits for run-off. Mr. Henshaw agreed that the applicant would work with the township engineer and neighboring properties to resolve the matter. Mr. Rosania indicated that the signs were really of a de minimis issue and were required for reasonable use of the property.

Mr. Rosania indicated the use of high-pressure sodium lights that give a softer appearance or lower wattage lighting with proper shielding. Lighting to be discussed further.

Mr. Henshaw agreed that lights with a truer resolution were required for ATM surveillance security cameras. It was suggested that Mr. Rosania visit the site to discuss the lighting needs, wattage and shielding. A reduction of after hours lighting would require police department approval. The applicant would be agreeable to working with the police and township engineer on determining the height and specifics in the field.

Mr. Rosania indicated the requirements for Morris County Soil Conservation District would need to be met along with the fire departments request for a hydrant along the driveway.
Mbr. Speiss inquired about the name change of the bank. Mr. Henshaw responded that the new bank’s sign manufacturer was unable to provide signage diagrams in time for the hearing. He suggested that a condition of approval be included so that if the signage is either identical or smaller in size and in the same location, with TD North or Red Sea’s name instead of Commerce Bank.

Mbr. Wilson inquired if there was anything unusual in comparison to other banks. Mr. Henshaw indicated that this is typical signage and not unusual in nature.

Mbr. Saccamano inquired if the applicant has had a dialogue with fire and police departments. Mr. Henshaw indicated that this is typically done after approval is obtained.

Mbr. Passucci inquired about the drainage for the neighbors. Mr. Rosania indicated that neighbors with a depressed site would have to raise the area to get the water to the property line. Mr. Henshaw indicated that they may be able to assist with the neighbors’ existing drainage issues inherent of their own properties. If Commerce creates a drainage system, neighbors may be able to address standing water issues by using Commerce’s drainage system. Glen Savino added that the berm would improve the existing situation, intersecting with the berm and sloping it back towards the inlet. This will reduce the flow and help the existing area, which is a low-lying area.

Mbr. Murphy inquired about troublesome traffic. Concerned about the sign on the corner of Luger and Rt. 53 and if there was consideration to moving it south. Also inquired about talking to the applicant about creating a sitting area similar to New Providence Bank and moving the sign approximately 50’ to the south in front of the building. He also inquired about existing trees to remain.

Glen Savino indicated that the black line indicates a Tree Protection Fence around the trees to remain along the roadway and four that are set back.

Mbr. Dankos commented that the plan was a great design.

Mbr. Scollans voiced concern about the berm damning water on the other side and inquired about what provisions were being made to minimize the potential of creating a problem on the other side.

Glen Savino indicated that the elevation would remain 520 and would not be changed. A pipe or headwall was previously suggested to allow flow back and forth and breach the berm.

Mbr. Rodimer had no questions.

Chr. Korn inquired about the chain link fence with red plastic slats and what portion would be removed. Mr. Savino stated that the portion between the residential properties and the subject property was to remain. The portion along the Rt. 53 frontage would be removed.

Mr. Rosania suggested that reasonable condition of approval be that the fence be repaired as necessary in the field along the residential properties.

In response to Chr. Korn’s inquiry Mr. Savino provided a detailed description of the berm indicating it’s approximate length of 3.5’ high, 390’ long with a staggered row of evergreens with a buffer of 11/12” at planting.

Mr. Rosania inquired about irrigation for the berm and recommended a positive irrigation system. Mr. Henshaw indicated that the current intention was to water as necessary and thought that it may be easier to irrigate the berm instead of a redesign.

Mbr. Scollans had suggested a swale for the trees that would irrigate them at the same time. Several possibilities were discussed including eliminating the berm and making a swale, increasing trees and other changes to address the neighbors.

Chr. Korn inquired about the sidewalk. Mr. Savino stated that the sidewalk would be repaired as necessary. There is pedestrian traffic to the bank. The existing perimeter sidewalk indicated in yellow. Chr. Korn requested a sidewalk be placed along Luger Road to driveway entrance. Mr. Savino indicated that they would like to bring the
pedestrian traffic to the front entrance of the building. Mr. Henshaw indicated that a sidewalk could be added if it was the desire of the board.

Chr. Korn opened the hearing to public for questions.

Ms. Gloria Sanchez-Torres, Lot 3 of Manor Road inquired about plowing practices and construction on weekends. Mr. Henshaw indicated that the snow would be pushed to open grass and pavement areas and that construction on weekends would adhere to local ordinances for noise.

Chr. Korn inquired about soil movement. Mr. Savino that there would be removal of building, asphalt and possibly gravel. Overall a minimal amount of import or export.

Ms. Frances Scwez of 61 Manor Road (Lot 18 and 19) inquired about wetlands and if the line size is large enough. Additionally, Ms. Scwez voiced concern for the lighting. Mr. Henshaw indicated that someone else owns the property and they are tenants. Although there are wetlands on Luger Road, none of the building is impacted by wetlands. Mr. Savino indicated that 18" pipe should be sufficient and the lighting was white not orange.

Mr. Rosania responded that the CVS mail has improper lighting that has been referred to the construction official. That this applicant is proposing a downward directed light with better shielding than the CVS. Mr. Savino referred to the Lighting Plan (Exhibit A-3) and stated that the lights would be 18' cut off fixtures with house shields. The black boxes on the plan indicate the lighting locations.

Ms. Jean Walsh of Lot 61 inquired if there would be a meeting outside those residents would be invited to. Chr. Korn indicated that the engineer would address restrictions, doming and any other lighting details. Ms. Walsh inquired about repairing sidewalks, drainage, deer and lighting.

Mr. Mark Dennis of 29 Manor Road, Lot 4 indicated that his property is directly affected by the drainage of the subject property. Mr. Dennis inquired if the applicant would work with Mr. Rosania to installing a supplemental drain of some sort. He further inquired about the existing trees along the red chain link fence.

Mr. Henshaw agreed that they would be working with the township engineer. They will design around the trees if necessary. Leaving the fence would prevent growth on resident's side. The applicant believes that the combination of the physical fence and trees would be best.

Mr. Masierski 33 Manor Road, Lot 5 inquired about drainage questions previously answered.

Ms. Jean Walsh received an answer of “no" to her inquiry of building a panhandle.

Mr. Joseph Staigar, President of Staiger Engineering (East Hanover, NJ) was present and sworn in as a professional witness. Mr. Staigar addressed only the concerns of the board and public. Mr. Staigar indicated that studies are performed on other Commerce Banks. They bank operates extended hours of seven days per week from 7:30 a.m. to 8:30 at night on weekends and open on weekends. It is a convenient bank as an advantage from expanded bank hours, which allows for a disbursement of traffic flow on off hours. Commerce Bank generates about 60% traffic of what other banks generate. The DOT application can restrict the left turn if it is required. The other concern, the sign at the corner. The sign is the ideal location. Moving the sign could cause confusion and sight visibility issues.

Mr. Staigar further testified that the building is zoned for light industrial use and at 36,000 sq. ft. higher traffic would be generated by other permitted uses. In response to Mr. Rosania’s question, Mr. Staigar indicated that the driveway and parking would allow for safe and efficient circulation.

Mr. Rosania’s only comment was to confirm that the DOT would review the driveway aspects and circulation. It’s always good to have more than one access and overall traffic generated to this site is relatively minor.

Chr. Korn opened this application to questions from the Board.
Mbr. Murphy agreed with the bank having less intensive traffic and shared some concerns with potential cut through traffic being a legitimate concern. He stated that the railroad trestles are too low for tractor-trailers and maintained his comment that the sign would be better located in front of the building.

Mbr. Dankos felt it was a great plan for the area and the police and not the applicant should address any traffic concerns.

Mbr. Scollans inquired about the traffic study as it relates to the left hand turn on Rt. 53 exit during rush hour. Mr. Staigar states that the light helps to allow the left turn.

Mbr. Rodimer had no questions.

Mbr. Speiss shared his fellow board members concerns regarding the left hand turn towards Rt. 53 and traffic flow on Luger Road. He inquired if turns could be restricted on by hours. Mr. Rosania indicated that the repeat customers would know what time is most convenient. Additionally, Mr. Rosania didn’t believe that a restriction of hours would benefit.

Mbr. Wilson shared concerns of the board members regarding the turn.

Mbr. Saccamano liked the plan, as the subject property was previously an eyesore. He stated that many of the issues discussed would be easily resolved by working with the engineer.

Mbr. Passucci had no questions.

Due to time constraints, Chr. Korn indicated that the hearing would be carried without further notice to October 15, 2008.

**ADJOURNMENT:** Motion to adjourn.

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Denean Probasco, Board Secretary           Date Approved