The Board of Adjustment of the Township of Denville held its regular scheduled meeting on Wednesday, November 5, 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, Sally Dankos, John Murphy, Nick Saccamano and Frank Passucci
Prof. Present: Larry Weiner, Nicholas Rosania and William Denzler

MINUTES:

October 15, 2008
Motion to adopt the minutes as submitted was made by Mbr. Scollans, seconded by Mbr. Murphy and unanimously approved by all Members present and able to vote.

PURCHASING:
Motion to pay voucher(s) submitted by Weiner & McMahon dated October 15, 2008, subject to the availability of funds, was made by Mbr. Rodimer, seconded by Mbr. Scollans and unanimously approved by all Members present.

CORRESPONDENCE:
Nick Rosania, Township Engineer indicated that there was one small change to the TD Commerce Bank resolution. Mr. Josh Mann, of Porzio Bromberg & Newman was present and indicated that Condition 10 on the last page of the resolution that with the ordinance would be struck from the sentence “property will comply with the ordinance” due to the variance for signage. It would comply as proposed or smaller. Mr. Weiner had previously recused himself on the Commerce Bank application and suggested Mr. Rosania respond. Mr. Rosania agreed that the change was of a limited nature and would be more in line with the approval as written. Chr. Korn asked if the board had questions. Mbr. Scollans commented that he concurred with Mr. Rosania. Chr. Korn indicated that the vote on the resolution would be taken as amended.

RESOLUTIONS:

BA/SP/MS/FSP 08-02: TD Commerce Bank
   Block 31401, Lot 16
   Route 53 & Luger Road
Motion to adopt the memorializing resolutions for the above-mentioned properties was made by Mbr. Scollans and seconded by Mbr. Murphy and unanimously approved by all members present and able to vote.

ROLL CALL: Ayes: Scollans, Murphy, Spiess, Passucci, Dankos, Korn

PUBLIC HEARINGS:

BA 08-27: Thomas Carlyon
   Block 60903, Lot 8
   17 Hardman Terrace
Michael J. Rowland, Esq. notified the board that he would be representing the applicant and requested additional time to prepare. Mr. Rowland indicated that an extension would be given to the end of February, 2009 and requested that there is no further notice. Mr. Buzak, Board Attorney indicated that no further notice would be required if there was no problem with the January 7, 2009 legal notice. Chairman Korn informed the applicant that the application would be carried to the January 7, 2009 reorganization meeting. The public hearing will be formally scheduled at that time.

BA 08-12: Elizabeth McCorkle
   Block 41111, Lot 311, 312 & 313
   2 Shawnee Trail
Chairman Korn informed the public that this application would be carried to December 3, 2008 for insufficient legal notice.

BA 08-30: Michael Ornitto
   Block 61504, Lot 116
   60 East Glen Road
Michael Ornitto (60 East Glen Road) was present and sworn in. The applicant is proposing to construct a front porch to their home. Mr. Ornitto explained to the board that “C” variance relief for a side yard setback of 10’ would exist where 17’ is required. The proposed porch would be
added to the front but would not extend out further than the existing dwelling on the sides. He believes that the porch would enhance the home and the neighborhood and requested the board’s approval.

Chr. Korn opened to the professionals for comments. Mr. Rosania indicated that the request was de minimis of nature and that there were no problems from an engineering perspective.

Chr. Korn opened to the public for comments. Seeing no one, the public portion was closed.

Chr. Korn opened to the board for comments. Mbrs. Speiss, Wilson, Saccamano, Passucci and Murphy had no questions. Mbr. Wilson commented that it looked good. Mbrs. Dankos, Scollans and Rodimer had no questions but commented that it looked nice. Chr. Korn inquired about the actual dimensions of the front porch. Mr. Ornitto testified that the porch would be length of the home, 27' and no greater than 11' deep.

A motion to approve this application was made by Mbr. Spiess and seconded by Mbr. Rodimer and unanimously approved by all regular Members.

Roll Call: Ayes – Spiess, Rodimer, Wilson, Scollans, Dankos, Murphy, Korn

BA 08-31: Kenneth Spencer
Block 60902, Lot 29
17 Cedar Lake West

Mr. Kenneth R. Spencer (17 Cedar Lake West) was present and sworn in. Mr. Stephen N. Bias, architect (344 Route 46, Denville) was also present and sworn in. The applicant is proposing to construct an addition with screened porch and small deck. The existing ranch style home was built in the 1950’s with a cubby kitchen. The home requires many improvements, including new roof, windows and cracked chimney and needs to be remodeled. Based upon the unique corner lot with two front yards, variances for left side and front yard setbacks are requested by the applicant.

Chr. Korn indicated there was an oversight and should the application be approved, the deck should be incorporated. Mr. Bias stated that there was no negative impact to the neighborhood and would not change anyone’s view of the lake. He indicated that the pan handle to the left of the property causes that portion of the property to be unusable.

Chr. Korn opened to the application to the professionals.

Mr. Weiner inquired about the property line and wall. Mr. Spencer indicated the neighbor’s detached stone garage was 10’ off the wall. Mr. Weiner called attention to the dimension immediately to the north of the house. Mr. Bias indicated that if the board should note that there is a proposed 2.3’ setback. For the record, it was noted that there is approximately 50-60’ of yard after the stone wall. Mr. Spencer indicated that there is a detached stone garage 10’ off the stone wall.

Chr. Korn opened the application to the board for questions.

Mbr. Murphy spoke about the site visit and inquired about the shed. The applicant confirmed that the shed would be moved to the pan handle. Mbr. Murphy commented that it was a good plan and had no other comments or questions. Mbr. Dankos agreed it was a nice plan. Mr. Spencer confirmed to Mbr. Dankos that it would remain a single family residence. Mbr. Scollans agreed with Mbr. Dankos and a nice improvement. Mbr. Rodimer inquired about there being a common driveway. Mbr. Bias indicated that it is deceiving and that the driveway is on Mr. Spencer’s property. Mr. Spencer indicated that the corner of the neighbor’s deck is actually on his property. Mbr. Spiess inquired about drainage to underground seepage pits and indicated that he would like to see a French drain or seepage pit. Mbr. Bias indicated that additional drainage could be required by the board. Mr. Rosania said a drainage embellishment could be added in the field if required. Mr. Weiner indicated that the drainage could be added as a standard clause. The applicant agreed to work with Mr. Rosania. Mbrs. Wilson and Saccamano liked the plan. Mbr. Passucci inquired about the entrance. Mr. Spencer indicated that the bushes would be removed and the garage doors would remain as they are. Chr. Korn asked the applicant about the dimensions of the deck and lighting. Mr. Spencer indicated that the deck would be a 12’x12’ and there would be no flood lights or motion sensors. Chr. Korn asked Mr. Rosania about the width of Seymour Road and the turning ability of emergency vehicles. Mr. Rosania indicated that the applicant would be willing to cooperate with engineering to widen the road. If relocation of the utility pole is required to widen the road, the board would not make the pole the responsibility of the applicant.

Chr. Korn opened the application to the public. Seeing no one the public portion was closed.

It was agreed that the drainage, deck lighting and possible investigation of widening Seymour Road would be included in the resolution.

A motion to approve this application was made by Mbr. Scollans and seconded by Mbr. Dankos and unanimously approved by all regular members.

Roll Call: Ayes – Scollans, Dankos, Spiess, Wilson, Rodimer, Murphy, Korn
Michael J. Rowland, Esq. represented the The MacCormick Agency and its principal, Mr. Castellini. The applicant is proposing to construct building signage and requesting a “C” variance relief for signage in a business district at 1820 East Main Street.

A recap was provided indicating that at the time of their previous denial for a sign variance in June 2008, the board suggested the applicant address the plans of signage for the needs of the current and potential future tenants of the building. Mr. Rowland indicated that what differentiates this application from the last is that this is a different proposed sign with limitations and that it has been reviewed and approved by the landlord. The new proposed application would control signage for the entire building and that the maximum signage for the building will be within the ordinance.

Chr. Korn opened to the board for questions. Since Mbr. Murphy raised the original question regarding the differentiation of the application, he commented. Mbr. Murphy commented that this is setting up the board as an arbitrator between future uses of this application and has concerns about the decision is definitive and enforceable going forward.

Mr. Weiner inquired about the legal notice. Mr. Rowland indicated that there was one notice that was technically omitted in error and represents that Mr. Mark LeDoux is a one man LLC. Mr. Mark LeDoux has signed a document indicating same. The notice was deemed acceptable.

Mr. Castellini was present and sworn in. Mr. Castellini testified that the business has operated for 60 years. Applicant indicated that the present signage is obstructed and inadequate and unless you know that their business is there you wouldn’t know. The proposed sign proposal of three pages shows the western façade, the eastern façade and the on the last page the front of the building. The applicant indicated that besides the applicant there is no known tenant interested in placing signage on the building. The diagram showing the additional four signs is the limitation of the signage of the building. Only the sign for the MacCormick Agency (5’x14’ totaling 70 sq. ft.) will be constructed at this time. The dimensions are for the entire panel, 12’ vertical and 16’ on horizontal for the entire panel including four additional signs (2’x6’) in addition to the MacCormick sign. The total 2,128 sq. ft. equates to 5.2% where the ordinance calls for 10%. The front sign would be 3’x8’ totaling 24 sq. ft. which is the same as the existing sign.

Chr. Korn opened to comments from the professionals.

Nick Rosania provided comments as a professional planner indicating that three signs are allowed in business district if they do not to exceed 10% of the wall. Total sign area should not be greater than 10% of the wall. The signage proposal appears to be reasonable. The applicant is a tenant and the proposal meets the requirement.

Larry Weiner, Esq. indicated that regardless of the number of tenants in the building, there is a limitation on the size of signage and that the sum of signs cannot exceed the area of the wall.

Michael Rowland, Esq. sited the Planning Board resolution of SP/FSPV 0403 dated June 16, 2004, in paragraph 10, pages 4 and 5.

Mr. Rosania had no further questions and is familiar with the overall aspects of the planning board. The building is another fixer-upper that both boards can be proud of stating that we want businesses to occupy and succeed.

Mr. Weiner, Esq. inquired of Nick Rosania in his capacity as planner for a recommendation of appropriateness. Mr. Rosania replied that it was tasteful and reasonable.

Chr. Korn opened to the board for questions.

Mbr. Murphy requested a refresh on the number of tenants in the building. Mr. Castellini responded that there were five. Mbr. Murphy thought it was more like seven based upon the number of electric meters. Since the time of the last application, the applicant has now taken space upstairs. Mbr. Murphy’s concern is that seven businesses would be more like 14% of the wall area.

Mbr. Dankos inquired about the smaller signage on the building. Mr. Rosania indicated that no parking signs and circulation signs are not part of the business. These signs are not considered part of the business signage under the ordinance.

Mbr. Scollans supports Mr. Rosania’s expert opinion.

Mbr. Rodimer inquired about the lighting of the sign and if it was to be internal or external. Mr. Castellini indicated that the signs on the building would be lit internally and there would be no spotlights. Mbr. Rodimer indicated that a gold leaf would be nice and neon signage would not be recommended. The applicant agreed to shut off the signage at 10:30 p.m.
Mbr. Spiess agrees that the applicant should be able to have a sign lit in the business district.

Mbr. Wilson asked for clarification on what he was approving. Mr. Rowland indicated that there are two approvals being sought. The first is approval of the MacCormick sign. The second is the limitation of the total signage for the building. Mbr. Wilson concluded that it was reasonable.

Mbr. Saccamano felt that the plan was a good plan and would like the signs to be identical.

Mbr. Passucci referenced the original plan to have windows on the second floor and the concern for the building becoming a billboard.

Chr. Korn received confirmation from the applicant that if approval is received that the proposed signage diagrams would be what is built. Chr. Korn further discussed the omission of the windows and enforcement, questioning the board’s ability of taking these decisions seriously.

Chr. Korn opened the application to the public. Seeing no one closed the public portion.

Chr. Korn opened the application to the board for comments.

Mbr. Murphy referenced the aesthetics and that the sign location falls under the prevue of this board. Mbr. Dankos believes we are penalizing this application. Mbr. Scollans believes the businesses should be successful and profitable and is in favor of the application. Mbr. Rodimer believes that this is a tough part of the town to do business due to parking, reasonable and in business to flourish. Mbr. Wilson maintains what was said earlier. Mbr. Saccamano supports the application. Mbr. Passucci has no further comments. Chr. Korn inquired about a possible natural lighting violation and received confirmation to his inquiry of the appropriate municipal parking permits. Mr. Rosania to inquire with the building department. Mbr. Spiess believes the board would be doing an injustice by not supporting this application. Mbr. Murphy commented that he is not in favor of the signs location. Mr. Rowland indicated that the signs beneath the eyebrows cannot be seen and that the first floor signage on the building would be obscured by the Valley National Bank’s parking.

Mbr. Speiss stated the conditions of the resolution is to include conditions on 5’x14’ for the MacCormick sign, overall signage of 12’x16’, lights off by midnight and granting of this resolution in no way sanctions any violations from previous resolutions.

A motion to approve this application was made by Mbr. Wilson, seconded by Mbr. Dankos and three regular members.

Roll Call: Ayes – Wilson, Dankos, Spiess, Rodimer, Scollans
Nays - Murphy, Korn

BA 08-23: Venkata Tata
Block 41311, Lot 6.05
5 Foster Road

Mr. Venkata Tata (5 Foster Road) was present and sworn in. This application was carried from September 17, 2008 for improper notice. The applicant is proposing to construct a spruce stockade fence 6’ in height and is seeking “C” variance relief for both fence type and height. The green line on the survey depicts where the proposed fence would be installed. The applicant stated that the subject property has two front yards. Route 46 is the rear yard but technically the front yard at approximately 190’. Applicant states that the fence would provide additional privacy, sound barrier and would eliminate the trash that is thrown on the property.

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

Mbr. Speiss wanted to understand the hardship and the need to install a fence since a berm already exists. Mr. Tata indicated for sound and to eliminate the trash. Applicant agreed that the Foster Road portion of the fence could be 4’ but the Route 46 side could be 6’. Mr. Tata indicated that the additional 2’ would help in eliminating trash generated by the pedestrian traffic. There were no further questions from the board.

A motion to approve this application was made by Mbr. Scollans and seconded by Mbr. Murphy and unanimously approved by all regular members.

Roll Call: Ayes – Scollans, Murphy, Spiess, Wilson, Rodimer, Dankos, Korn

ADJOURNMENT: Motion to adjourn was made by Mbr. Rodimer.

Denean Probasco, Board Secretary Date Approved