The Board of Adjustment of the Township of Denville held its reorganization meeting on Wednesday, January 2, 2008. The meeting was held in the Municipal Building, 1 St. Mary's Place, Denville and commenced at 7:00 P.M.

Secretary Bowditch read NOTICE OF PUBLIC MEETING.

ROLL CALL

Present: Sally Dankos, Roger Spiess, Arthur Korn, James Rodimer, Kevin Scollans, John Murphy, Mark Wilson, Nick Saccamano, Frank Passucci

Prof. present: Larry Wiener, Esq., Nicholas Rosania, PE, PP, William Denzler, PP

Also present was Councilperson Deborah Smith.

Secretary Bowditch announced Arthur Korn, Roger Spiess, and Frank Passucci had been reappointed. Larry Wiener, Esq. administered the oath.

Secretary Bowditch opened nominations for the position of Chairperson of the Board.

A motion was made to nominate Arthur Korn to serve as Board Chairperson by Mbr. Spiess and was seconded by Mbr. Rodimer.

No other nominations were heard and the nominations were closed.

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

Chris Korn opened nominations for the position of Vice Chairperson.

A motion was made to nominate James Rodimer to serve as Board Vice Chairperson by Mbr. Spiess and was seconded by Mbr. Scollans.

No other nominations were heard and the nominations were closed.

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

MINUTES

None

PURCHASING

Motion to pay vouchers submitted by Wiener & McMahon, dated December 20, 2007, subject to the availability of funds was made by Mbr. Scollans and seconded by Mbr. Wilson and unanimously approved by all members.

PROFESSIONAL COMMENTS

Mr. Wiener stated the answer was filed to the County with regard to Yuliano vs. Denville Township Board of Adjustment.

Mr. Rosania confirmed revisions had been received from RAIA self-storage.

RESOLUTIONS (Appear in their entirety at the end of this set of Minutes)

APPOINTMENT OF BOARD ATTORNEY FOR THE YEAR 2008

A motion was made to appoint Larry I. Wiener, Esquire Board Attorney for the year 2008 by Mbr. Spiess and was seconded by Mbr. Wilson and unanimously approved by all members.

APPOINTMENT OF BOARD SECRETARY

A motion was made to appoint Kathryn Bowditch as Board Secretary by Mbr. Spiess, seconded by Mbr. Scollans and unanimously approved by all members.

DESIGNATION OF NEWSPAPERS

A motion was made to adopt the resolution by Mbr. Rodimer, seconded by Mbr. Scollans and unanimously approved by all members.

SCHEDULE OF MEETING DATES FOR THE YEAR 2008

A motion was made to adopt the resolution was made by Mbr. Scollans, seconded by Mbr. Wilson and unanimously approved by all members.
REQUESTS FOR NOTICE OF MEETINGS
A motion was made to adopt the resolution was made by Mbr. Scollans, seconded by Mbr. Saccamano and unanimously approved by all members.

ADEQUATE NOTICE OF MEETINGS
A motion was made to adopt the above-mentioned resolutions by Mbr. Scollans, seconded by Mbr. Rodimer and unanimously approved by all members.

MINUTES OF MEETINGS
A motion was made to adopt the resolution by Mbr. Rodimer, seconded by Mbr. Scollans and unanimously approved by all members.

liaison to planning board
It was agreed that a list would be provided, scheduling specific Planning Board meetings to each Board member by seniority.

Councilperson Smith thanked the Board for their continued service and explained she will be the Council liaison to the Board of Adjustment. She asked to be advised if there was anything that she could do for the Board.

RESOLUTIONS

BA 07-33: Robert Wilkinson
Block 70501, Lot 487
113 Hillcrest Drive
Motion to approve the memorializing resolution for the above-mentioned property was made by Mbr. Rodimer and seconded by Mbr. Scollans.

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

PUBLIC HEARINGS:

BA/SP/FSP 05-43: WP Hotel Properties
Block 62101; Lot 2.02
370 Morris Avenue
Application will be carried with no further notice to the March 19, 2008 meeting.

BA 07-37: David McDonald
Block 40522, Lot 55
104 Franklin Road

David McDonald (104 Franklin Road) was present and sworn in. He is replacing the existing second story and would like to be able to cantilever the addition. He believed this would improve the appearance of the property, which is small and unique in shape. Mr. Rosania stated the property is constrained and the applicant would require front, rear and side yard setbacks. He confirmed the violations essentially already exist except for new deck. Mr. Denzler stated the cantilever and new deck triggered the requested variances. He stated it is a non-conforming lot in both size and shape. He confirmed a variance had been granted to construct a fence previously and he saw no substantial detriment to surrounding properties by granting this application. He confirmed with Mr. McDonald the addition would not affect the light, air and open space of the neighbor. Mr. McDonald explained the neighbor’s house faces West Shore Road.

Mbr. Spiess believed the addition would be functional and aesthetically pleasing.

Mbr. Wilson agreed.

Mbr. Murphy confirmed the rear yard setback should be 25-feet and asked what was the 17-feet shown on the plot plan. Mr. McDonald stated the 17 feet was the setback for the existing deck and confirmed the lighting would remain the same.

Mbr. Dankos liked the proposed addition.

Mbr. Rodimer asked what the existing and proposed square footage of the house would be, to which the answer was approximately 1600 sf exists and after the addition there would be approximately 2000 sf.

This application was opened to the public, seeing no one, was closed.

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

Roll Call: Ayes – Scollans, Rodimer, Dankos, Korn, Spiess, Murphy, Wilson
Natalie Betz (30 Lakewood Drive) was present and sworn in. She is in the process of expanding her home and is requesting variances to build a ground level deck, a second deck off the kitchen area, a balcony off the master bedroom and a dock into the lake.

Chr. Korn stated the house is in violation of the rear yard setback and asked how was approval given to begin construction. Mr. Denzler explained the ordinance has been interpreted that if the addition was to be built straight up from the existing structure, not cantilevered, then building permits could be granted. He then confirmed the construction requiring a variance would be for the second floor balcony, the two-tiered deck and the deck onto the Lake Arrowhead property and into the water.

Mr. Wiener confirmed Ms. Betz was requesting a zero setback for the decks and the deck built on Lake Arrowhead property would be subject to approval from the Association. Ms. Betz explained that after speaking with Lake Arrowhead Association, changes had been made to the proposed application. She distributed copies of the survey with the changes highlighted in green (the pink highlight was no longer being requested). She stated the ground floor deck would be 17’ x 16’.

Donald Betz (Point Pleasant Beach, NJ) was present and sworn in. He is doing the construction on the house. He explained they would no longer be proposing the deck be built over the embankment. He confirmed the second floor kitchen deck would be 10’ x 26’ to the rear of the house and the boat dock was proposed to be 12’ x 15’. He explained they are avoiding cantilevers at the request of the Association. Mr. Wiener stated the boat dock would have to be built at the approval of the Lake Arrowhead Association. Mr. Betz stated the Juliet balcony would be approximately 3 ½ to 4 feet deep, and countersunk into the house.

Chr. Korn asked if the 10’ x 26’ deck would be at ground level, to which Mr. Betz stated it would be at the level of the sliding glass doors. Mr. Wiener asked what would be on the ground under the deck. Mr. Betz stated he would like to have pavers pitched toward the lake and stated there are no plans to enclose this deck. Chr. Korn asked how far the pavers would extend. Mr. Betz stated they would like to extend the pavers as far as possible.

Mr. Betz then described the deck along the common driveway, which would be at ground level. Mbr. Wilson confirmed the dotted line running through the proposed deck was the rear boundary line of the property.

Mr. Rosania warned the applicant that the proposed decking might require NJDEP approval. He then confirmed the boat dock would be new and would require approvals from the Lake Association and possible State approvals. He stated the property tapers toward the lake. Mr. Wiener asked if pavers or grass would be better from an engineering standpoint. Mr. Rosania believed a layer of course stone would be the best option under the deck. Mr. Betz confirmed they would be willing to keep grass in the rear open area (highlighted pink) from the water line to the deck.

Mr. Denzler stated even though there have been changes proposed; the applicant is still requesting the same setback variances for the side deck, 0’ to the side and 0’ to the rear. He stated the rear deck would be 3.5-feet at the closest point to the rear property line.

The revised plot plan was marked as exhibit A-1.

Chr. Korn asked what the common stone driveway was. It was confirmed that it was an access point to the lake.

Mbr. Murphy was concerned about having zero setbacks and asked if the deck would be located on Lake Arrowhead property. Mr. Betz stated the proposed deck does cross into Lake Arrowhead property and was done in order to have access to the boat dock. Mr. Betz stated the rear deck pier would be 9 feet from the house and the rocks were 12.5’ from the house. Mbr. Murphy was concerned about having an elevated deck that close to the lake, as he did not believe it fit with the neighborhood. Mr. Betz presented a series of photos of other houses with elevated decks close to the lake, though he was unable to identify the pictures with addresses.

Mr. Wiener was concerned the photos were not identified with addresses and distances because it was unknown as to whether variances had been granted. He advised the photos could be placed into evidence, but that the probity of the evidence was lessened because of the lack of identifications. The photos were marked as exhibit A2, A3, A4, A5, A6 and A7 and were described as houses with decks throughout the lake area.

Mbr. Murphy confirmed the proposed application would meet the RSIS standard for off-street parking for a single-family residence.

Mbr. Scollans was concerned with having a zero setback and believed it was not acceptable. He would like to have written documentation from the Lake Arrowhead Association regarding the
acceptance of the proposed decks. He confirmed the applicant had not yet contacted NJDEP. There was a discussion about how the floating dock would be anchored. Mr. Betz confirmed the boat dock is subject to the lake approval. Mbr. Scollans asked what the water level is at the highest point, to which the answer was about a foot and a half high than what is there now. Mbr. Rodimer liked the proposed second floor deck, but was also concerned with have a zero setback for the ground level deck. He asked how the deck would be maintained and would like to have some setback. Mr. Betz stated the deck would be made as “maintenance free” as possible and did not believe he would have to infringe on anyone’s property.

Chr. Korn asked who owns the adjacent property to the left on the survey, to which the answer was it is common property and an access to the lake.

Mr. Wiener asked if the Community Association has taken a position on this application. Peter Rand, president of the Community Association, was present. He stated the Association has taken no formal position, other than verbally stating the dock was too large as originally proposed.

Mbr. Spiess stated that because the Association has not taken a formal position on this application and he is not within 200’ of the property, he does not need to recuse himself. He stated he liked the bedroom balcony, but was concerned with the side deck having no setback. He believed the rear deck was too large and did not like having pavers under the deck. He had no position on the boat dock and confirmed there was no setback requirements for the pavers. Mr. Betz stated he could remove the 17’ x 16’ side ground level deck, but asked if pavers could be added for parking. Mr. Wiener confirmed the applicant would apply to the Lake Association and any other required departments to get permission to construct the boat dock. Mr. Denzler confirmed there was no zoning ordinance for the proposed gangway to the floating boat dock. Mbr. Wilson was also concerned with the side deck, which has been addressed by removing it.

He liked the changes proposed.

Mbr. Saccamano echoed the other Board Member comments.

Mr. Wiener confirmed the 17’ x 16’ deck would be removed, and the Board would be voting on the rear “second level” deck and the balcony. The boat dock would be addressed at the Lake Arrowhead Association.

Mr. Rosania confirmed he would work with the applicant on the pavers and the water quality. Chr. Korn confirmed the applicant was a member of the Lake Association and would abide by their rules and regulations.

Mayor Hussa was present and asked to address the Board. He thanked the Board for their continued service.

This application was opened to the public, for questions.
Peter Rand (40 Mosswood Trail) was present. He asked how the gangway would be anchored. Mr. Wiener confirmed the Board does not have the jurisdiction and would be left for the Lake Arrowhead Association to determine with the applicant.

Peter Nauta (19 Ridgewood Parkway West) was present. He asked why the applicant was not following the ordinance requirements for the rear yard setback. Mr. Wiener explained the law and how it pertained to variance requests and requirements. Mr. Nauta asked the dimensions of the proposed deck and how far it would be from the property line. Mr. Betz stated they are proposing the deck to be 10-foot deep and 25-foot wide, which would require a 3.5 feet rear yard setback at the closest point. Mr. Betz showed the rear property line on the survey.

Andrea Collett (28 Lakewood Drive) was present. She stated she owns the property on the other side of the common driveway. She asked for confirmation on the property line. She believed the common driveway is not to scale and that the walkways impede on the common drive and asked if that was important to this application. Ms. Collett was concerned the proposed pavers would make the water runoff worse.

Peter Rand (40 Mosswood Trail) confirmed the common driveway is lake property. Mr. Betz stated he would be willing to put a 6” French drain along the common driveway to help with drainage.

Sylvia Lacey (16 Garwood Trail) was present. She asked if the deck off the kitchen were denied, what would the applicant do? Ms. Betz stated she did not know what she would do, as there are French doors there and she would like to have a place to eat outside. She explained she has already altered the plans.

This application was opened to the public for testimony.

Peter Rand (40 Mosswood Trail) was present and sworn in. He stated that one of the photos presented was of his deck, which is in the side yard of his property. He appreciated the modifications proposed, so there was not a zero setback. This application was closed for both questions and testimony.
Mbr. Spiess appreciated that the side deck was removed and that the dock is not before this Board. He was concerned with the amount of the deck remaining and asked if the remaining proposed deck width could be shortened. Mr. Betz explained the placement of the proposed piers and stated he would be willing to bring the deck length in on each side approximately 1 foot on common driveway side and 2 feet on other side. Mbr. Spiess liked the proposed modification and believed it would lessen the bulk of the proposed deck.

Mr. Betz stated he would provide revised drawings.

Mr. Wiener suggested that the Board authorize him to draft a resolution with the requirement that the revised drawings be submitted prior to adoption.

Mbr. Murphy would like to know the precise distance for the rear yard setback, which was 3.5’. Mbr. Wilson and Mbr. Dankos liked the changes.

Mbr. Scollans was glad that a compromise could be reached. Mbr. Rodimer liked the changes.

Mbr. Spiess would like to see an approval with the conditions that a French drain is provided and donut pavers be used to help with the drainage and erosion. Mr. Wiener stated this should be shown on the revised plans.

A motion to authorize Mr. Wiener to draft a resolution of approval was made by Mbr. Rodimer and seconded by Mbr. Dankos.

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

BA 07-39: Patricia Grimes
Block 61003; Lot 214
83 Cedar Lake West

Patricia Grimes (83 Cedar Lake West) was present and sworn in. She is proposing to construct a one-car carport. She has two front yards and requires a variance. She stated there is an existing canvas non-permanent structure that is being used to cover the car, which would be removed and replaced by the proposed carport. She confirmed the carport would have no walls, only latticework, and would be placed so no trees would have to be removed and pavement would not be added.

Mr. Rosania agreed the property was small with two front yards. He believed this would be an improvement to the site and confirmed there were no site distance issues. Mr. Denzler cautioned the applicant that the carport was proposed to be on the right of way line and extend 17 into the property. He agreed that trees would be saved and believed it was okay, from a planning perspective, to be located on the right of way. He stated the only conforming location would be adjacent to the house, which would be worse for the property and neighborhood. He asked that a condition of approval be the carport remains open. Mbr. Murphy asked if consideration had been given to placing the carport further on the property, to which Ms. Grimes stated that trees would have to be removed and there would also be less livable area in the back yard. The proposed placement would use the existing blacktop area.

Mr. Denzler agreed this was the best location for carport because it would keep the existing vegetation and have the least impact on the property. He stated the carport would be an open structure, so there would be no visibility problems. He restated the proposed placement was the best location, from a planning perspective.

Mr. Rosania agreed and stated the roadway is not heavily traveled.

Mbr. Murphy was concerned about placing the carport on the right of way line. Mbr. Dankos liked the proposed plan and believed it fit with the neighborhood. Mbr. Scollans was concerned about no setback on the front and side. Mbr. Rodimer was concerned with how the carport would be maintained with no setback. There was a discussion about the placement of the carport.

Mbr. Spiess stated that after hearing the testimony, he liked the proposed application and did not believe it would be a precedent. He liked the open structure also. Mbr. Wilson believed the open structure was more appealing and fit with the neighborhood. Chr. Korn was concerned with having the structure on the right of way, as he believed there was room to move the structure back on the property. He was concerned about snow removal damaging the carport. He was not in favor of this application and believed it did not fit with the neighborhood.

Mr. Rosania confirmed carport was proposed to be approximately 5 to 6 feet from the edge of pavement, which was different from the right of way line. Ms. Grimes confirmed it would be at the same distance from the roadway as the existing canvas tent. Mbr. Saccamano confirmed the canvas tent was not damaged by snow removal.
Chr. Korn and Mbr. Murphy were now satisfied the carport was not proposed to be along the roadway. This application was opened to the public, seeing no one, was closed.

A motion to approve this application was made by Mbr. Spiess and seconded by Mbr. Murphy. Roll Call: Ayes – Spiess, Murphy, Dankos, Korn, Scollans, Rodimer, Wilson

OTHER BUSINESS:
Chr. Korn would like to have a temporary structure ordinance, especially for canvas tents. The new application would be looked at by the Members and discussed at the next meeting.

ADJOURNMENT: Motion to adjourn.

Kathryn Bowditch, Administrative Secretary | Date Approved