TOWNSHIP OF DENVILLE
BOARD OF ADJUSTMENT
MINUTES

August 5, 2009

The Board of Adjustment of the Township of Denville held its regular scheduled meeting on Wednesday, August 5, 2009. The meeting was held in the Municipal Building, 1 St. Mary's Place and commenced at 7:00 P.M. Chairperson James C. Rodimer presided.

Secretary Probasco read NOTICE OF PUBLIC MEETING.

ROLL CALL:  Present:  James Rodimer, Kevin Scollans, Roger Spiess, Marc Wilson, Arthur Korn, Sally Dankos, John Murphy
Absent:  Frank Pasucci
Prof. Present:  Larry Weiner, Esq., Nicholas Rosania, PE, William Denzler, PP

MINUTES:
July 15, 2009
Motion to adopt the minutes as submitted was made by Mbr. Murphy seconded by Mbr. Korn and unanimously approved by all Members present and able to vote.

PURCHASING:
Motion to pay voucher(s) submitted by Larry I. Wiener, Esq. dated July 23, 2009, subject to the availability of funds, was made by Mbr. Murphy seconded by Mbr. Korn and unanimously approved by all Members present.

CORRESPONDENCE:
Chr. Rodimer indicated that there was no correspondence.

PROFESSIONAL COMMENTS:
Mbr. Korn commented on a recent bill from Denzler & Associates on the Feulner application and inquired about the activity. Nick Rosania, PE stated that there was activity on the application but that he had not seen it.

RESOLUTIONS:
BA 09-08: Jim & Carol Ann Veraldi
Block 20601, Lot 20
16 Old Mill Drive
Motion to adopt the memorializing resolution for the above property was made by Mbr. Scollans, seconded by Mbr. Murphy and unanimously approved by all Members present and able to vote.
Roll Call:  Ayes – Scollans, Murphy, Wilson, Korn

BA/SP/SS 09-10: Eric J. Burnstein
Block 61005, Lot 47
104 Cedar Lake West
Motion to adopt the memorializing resolution for the above property was made by Mbr. Scollans, seconded by Mbr. Murphy and unanimously approved by all Members present and able to vote.
Roll Call:  Ayes – Scollans, Murphy, Wilson, Korn

BA 09-13: St. Francis Health Resort, Inc.
Block 50002, Lot 1.01 & 1.02
122 Diamond Spring Road
Motion to adopt the memorializing resolution for the above property was made by Mbr. Scollans, seconded by Mbr. Murphy and unanimously approved by all Members present and able to vote.
Roll Call:  Ayes – Scollans, Murphy, Wilson, Korn

PUBLIC HEARINGS:
BA 09-02: Roger & Rachel Wilson
100 Riverside Drive
Block 50401, Lot 3
Applicant is proposing to construct an extension of an existing front porch requiring “C” variance relief for front yard setback. Chr. Rodimer announced that the applicant was unable to notice and the public hearing on this application would be rescheduled.
BA 09-12: Greg & Carol Jennings
509 Diamond Spring Road
Block 60606, Lot 14

Greg & Carol Jennings (509 Diamond Spring Road) were present and sworn under oath. The applicant proposes to construct a shed and deck requiring “C” variance relief for accessory buildings in a front yard and front and side yard setbacks. Mr. Jennings testified that the existing porch was in a state of disrepair and would be removed and replaced. Applicant proposes to build a deck and a shed at the same time. The stairs would be out an additional 5’ leaving the front yard setback at 30’ versus the existing 35’. A 8’ x 12’ shed would be in the front of the house versus the rear.

Chr. Rodimer opened the hearing to the professionals for comments.

Nick Rosania, Township Engineer stated that a considerable distance of 55’ existed between the front of the house and the edge of the pavement. The shed in the front yard is a larger variance. The property is a corner lot with steep slopes and moving the shed to the front would be more appealing to the neighbors. No sight distance issues exist.

Chr. Rodimer opened the hearing to the board members.

Mbr. Murphy spoke to the plot plan and received confirmation from the applicant that the property had frontage on three streets, Hill View Terrace, Diamond Spring and Whale Back Waddy. Mbr. Scollans had no questions or concerns.

Mbr. Spiess commented that the improved functionality made it a good application and was in favor of it.

Mbr. Wilson commented that the proposed deck would have a dramatic improvement and that due to the uniqueness of frontage on multiple roads, that it fits well as designed, and had no problem with the application.

Mbr. Korn commented to the hardship of the undersized lot. Mbr. Korn was satisfied with the application and had no further comments.

Mbr. Wilson commented that the proposed deck would have a dramatic improvement and that due to the uniqueness of frontage on multiple roads, that it fits well as designed, and had no problem with the application.

Mbr. Korn commented to the hardship of the undersized lot. Mbr. Korn was satisfied with the application and had no further comments.

Chr. Rodimer questioned the height of the deck and the existing metal shed. Mr. Jennings indicated that the deck would be slightly higher than the concrete steps and confirmed that the metal shed would be removed. Chr. Rodimer thought the proposed was a great improvement and had no problem with the application.

Chr. Rodimer opened to the public, and seeing none closed the public portion of the meeting.

Larry Wiener, Board Attorney sought confirmation on the number of sheds on the property. The applicant confirmed that there would only be one shed on the property.

A motion to approve this application was made by Mbr. Wilson, seconded by Mbr. Scollans and unanimously approved by all members eligible to vote.

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

Nick Rosania, Township Engineer suggested in consideration of time, that the applicant be able to proceed with construction while awaiting the memorialized resolution in September. Chr. Rodimer thought it was a good idea.

BA 09-15: Patrick Donlon
83 Thurmont Road
Block 30605, Lot 6

Eugene P. Dolan, Esq. (94 Morris Avenue) represented the applicant Patrick Donlon (83 Thurmont Road). Applicant proposed to construct an addition requiring “C” variance relief for front and rear yard setbacks. Property is zoned R-1B with a 22’ rear yard setback where 100’ is required and 21’ proposed side yard setback where 50’ is required. The proposed is an improvement over the existing FYS of 20’ and SYS of 14.2’. Applicant testified to the removal and replacement of the existing garage with a new two-car garage. The addition will increase the two bedrooms to three and improve the existing kitchen.

Chr. Rodimer opened the application to professional comments.

Nick Rosania, Township Engineer spoke to the hardship of the homes in the neighborhood being on existing non-conforming lots. The proposed home will be an improvement over what exists today, as well as the setbacks.

Chr. Rodimer questioned the side yard setback. Larry Weiner also sought clarification on the number of variances being two or three. Nick Rosania indicated that the rear yard setback on the denial letter should have read side yard setback.

Mbr. Spiess inquired about the septic being up to code for the size of the home. Mr. Rosania indicated that the evaluation of septic would be subject to construction and health. Mbr. Spiess inquired if the septic should be a condition of approval. Mr. Rosania indicated that it is automatically a consideration of approval. The applicant indicated that the property has town water and that a septic was just done in February for a four bedroom home.
Mbr. Wilson commented that the proposed is an overall improvement with improved setbacks and was in favor of the application.
Mbr. Korn commented that the variances would be lessened than what exists. The applicant indicated that the backyard is a paper street and the garage is near the Estling Lake property.
Mbr. Murphy inquired if Estling Lake owned the property across the street. The applicant indicated that the Township of Denville also owned a small portion. Mbr. Murphy commented that the current garage is an eyesore and the proposed is a good plan.
Mbr. Scollans commented that the proposed project was great and inquired about drainage. The applicant indicated that a French drain exists and the area will be reworked if the addition is approved.
Chr. Rodimer thought it was a great plan.

A motion to approve this application was made by Mbr. Spiess, seconded by Mbr. Scollans and unanimously approved by all members eligible to vote.

BA 09-16: William & Elaine Bellando
1 Horizon Drive
Block 11001, Lot 1

The applicant, Bill and Elaine Bellando (1 Horizon Drive) were present and sworn in. Applicant is proposing to erect a 7’ 8” welded black vinyl welded deer fence requiring “C” variance relief for fence height. The applicant testified that both husband and wife have contracted lyme disease twice each and that they have a Great Dane puppy that they would like to keep in and away from the deer population. The fence would be erected approximately 22’ off the rear property line to allow the deer to pass through their property.

The applicant provided two photographs and the third page was a sample from a fencing company. These were marked as Exhibits A-1 through A-3.

Chr. Rodimer opened the hearing to the professionals.

Nick Rosania, Township Engineer indicated that it would be acceptable for the applicant to put a 6’ fence on the property line that could be more opaque than the proposed 7’8” deer fence. The applicant indicated that the fence is a standard height that would act as a deterrent to the deer and the tree line along Smith Road would remain.

Mbr. Spiess commented that he was sympathetic but since it wasn’t required for agricultural reasons, stated that he could not support an application for a fence in excess of 6’.
Mbr. Wilson stated that he concurred with Mbr. Spiess.
Mbr. Korn concurred with the applicant on the deer issue. Nick Rosania, PE confirmed that the fence would begin at the rear of the house. The applicant requested that if the board would not approve the 7’8” deer fence that the board consider approving a variance for a 6’ fence along Smith Road. Mbr. Wilson requested clarification on 6’ being allowable on two sides. Nick Rosania, PE and Larry Weiner, Esq. confirmed that due to the two front yards a variance would still be required. Mbr. Korn stated he would have difficulty approving a 6’ fence along Smith Road.
Mbr. Murphy liked the style but shared the concern of the board members on the height and was in favor of 6’ fence even along Smith Road.
Mbr. Scollans had no problem with a 6’ fence but did not agree with the 7’8” height.
Mbr. Rodimer had knowledge of the gauges of fence types and stated that the 6’ height was more common and less expensive. Mbr. Rodimer supported the 6’ along Smith Road in a residential area that was not for commercial business uses. Chr. Rodimer stated that the board would vote on whatever the applicant desired to request.

Larry Weiner, Board Attorney acknowledged the applicant’s prior concession for a 6’ proposed fence and clarified what the applicant’s options with and without variances would be.

Chr. Rodimer opened the hearing to the public for questions.

Mr. Gordon Tracey (3 Horizon Drive) questioned the assumption that their property fronts Smith Road. The Board Attorney addressed that the technical compliance for a corner property would be measured from both corners. Mr. Tracey had no questions but commented that he believed the applicant’s home faced Horizon Drive and not Smith. Mr. Tracey voiced his personal opinion that 6’ on Smith would be acceptable but objected to granting a variance for a 7’8” fence.

Mr. Alex Raybould (2 Horizon Drive) spoke on behalf of his parents who reside at an adjacent property. Mr. Raybould stated that the proposed fence would not be in keeping with the open character of the neighborhood. Mr. Raybould voiced concern about the aesthetics and stated that the survey was not an accurate reflection of the rear of the home. Larry Weiner, Esq. indicated that Mr. Raybould’s concerns regarding the state land versus private property were not germane to this hearing. Mr. Weiner reminded the public that the fence height and potential impact would be considered. Mr. Raybould commented that the 6’ fence should be effective and questioned the accuracy of the diagram. Elaine Bellando indicated that the house does jut out
slightly due to an addition that occurred after the survey was created. Mr. Raybould had no further questions or comments.

Chr. Rodimer asked if there was anyone else from the public with questions and seeing none, closed the public portion of the meeting.

A motion to **approve** this application for a fence 6’ in height was made by Mbr. Rodimer, seconded by Mbr. Wilson and approved by four members eligible to vote. The vote was taken along with comments.

Mbr. Wilson voted yes indicating that it’s difficult for the neighbors to tell what the end result will be and that it will not be offensive at 6’.

Mbr. Spiess voted yes due to the fact that the type of fence is unobtrusive.

Mbr. Korn voted no due to a preference for openness in the neighborhood and 4’ along Smith Road.

Mbr. Scollans voted no stating that a 6’ fence would impose on the neighborhood and commented that a 4’ fence should be sufficient. Chr. Rodimer commented that the applicant could build a 6’ fence on two sides and that the only difference was the 2’ additional height along Smith Road. Mbr. Scollans vote stood unchanged.

Mbr. Murphy agreed with Mbr. Spiess that the fence type would be unobtrusive and voted yes to the portion of the fence along Smith Road.

**Roll Call:**

Ayes – Rodimer, Wilson, Spiess, Murphy

Nays – Korn, Scollans

**OLD BUSINESS:**

Chr. Rodimer referenced that Mbr. Saccamano had resigned due to involvement in other activities and limited available time. Chr. Rodimer commented that the board is comprised of volunteers and asked that board members refer any interested parties for the council to interview.

It was decided that a letter be sent to Nick Saccamano thanking him for his service and wishing him luck in his future endeavors.

Motion to Adjourn.

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Denean Probasco, Board Secretary

Date Approved