TOWNSHIP OF DENVILLE  
BOARD OF ADJUSTMENT  
MINUTES  

January 20, 2010

The Board of Adjustment of the Township of Denville held its regular scheduled meeting on Wednesday, January 20, 2010. 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, Mark Wilson, Arthur Korn, Sally Dankos, John Murphy  
Absent: Roger Spiess, Frank Passucci  
Prof. Present: Larry Weiner, Esq., Nicholas Rosania, PE, William Denzler, PP

MINUTES:  
January 6, 2010  
Motion to adopt the minutes as submitted was made by Mbr. Korn, seconded by Mbr. Murphy and unanimously approved by all Members present and able to vote.

PURCHASING:  
Motion to pay voucher(s) submitted by Larry I. Wiener, Esq. dated January 12, 2010 and January 19, 2010 subject to the availability of funds, was made by Mbr. Korn, seconded by Mbr. Wilson and unanimously approved by all Members present.

CORRESPONDENCE:  
Nick Rosania, Township Engineer commented that Bill Denzler, Township Planner would be presenting the Highlands before the Planning Board at the January 27th public meeting. Mr. Rosania also referenced that the Mayor would be holding a NJ Highlands Coalition meeting on February 1st and that Highlands would be discussed at the Council Workshop meeting on February 9th.

Bill Denzler, Township Planner confirmed the dates for the Highlands meetings.

RESOLUTIONS:  
BA 09-22: Leifken Bros. Realty, LLC.  
Block 41102, Lot 3  
297 Route 46  
Motion to adopt the memorializing resolution as submitted for the above property was made by Mbr. Scollans and seconded by Mbr. Korn and unanimously approved by all Members present and able to vote.

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

PUBLIC HEARINGS:  
BA/SPC 09-18: W & L Associates, LLC  
Block 41307, Lot 2 & 8  
423 Main Street  
Applicant requested adjournment of the application by letter dated January 11, 2010. Chr. Rodimer announced that the public hearing for this application was carried to March 17, 2010 without further notice.

ABA 09-23: Ciottariello Group Holdings, LLC  
Block 40102, Lot 5  
301 Palmer Road

Theodore Einhorn, Esq. (165 East Main Street) represented the applicant. Mr. Einhorn summarized that the use variance has been requested in the event that an overturn of the appeal cannot be substantiated. Mr. Einhorn summarized that the applicant was advised by the municipality that a site plan for the property located in the I-2 zone was required. After the LOI was received, the originally purchased 3.1 acres has become 1.1 acres due to riparian buffer. The applicant received a cease and desist letter from the Zoning Officer. Mr. Einhorn indicated that he has a large packet of minutes to distribute to the board members to support that a storage yard has existed on the property since 1984. Mr. Denzler stated that the original Lots 4 and 5 were to be merged and that a perimeter deed was never finalized. Using Exhibit A-1, Mr. Einhorn showed the Final Plan dated 1985 to reflect that a storage facility has resided on the subject property. Although marked as Exhibit A-3, the board agreed that the minutes would not be
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required since it has already been established and confirmed by Mr. Denzler that the storage facility has existed. A 1987 version for the one property was also never implemented.

Joe Ciottariello, principal of (140 Mountainside Drive, Randolph) Millbrook Landscaping, LLC was present and sworn in. Mr. Ciottariello testified to residing 1.5 miles away from the subject property at 180-182 Franklin Avenue. Mr. Ciottariello testified to using the property for yard machinery, trucks and some materials relating to the landscape business. The property was purchased in 2007 for $610,000.00 from Mr. Longo. The applicant testified to storing stone dust, quarry process and to parking approximately 30 pieces of equipment consisting of excavating equipment, bulldozers and pick-up trucks. The yard is used strictly for parking, not operating. Nothing is made or sold onsite and all work is performed offsite. Testimony continued regarding speaking with Mr. Denzler regarding the yard of over three acres and being told he needed approval for the property. Applicant retained an engineer and wetland specialist. Stated he desired placing trees up along Palmer Road and the other side in an “L” shaped pattern. The business hours of operation were stated as 7 a.m. to 8 p.m., with the end of day varying. Twelve employees previously but none currently.

Chr. Rodimer opened the application to the professionals for comment.

Nick Rosania, Township Engineer spoke to there being no members of public present. Spoke to complaints from neighbors regarding hours of operation, weekends, noise and the visual aspects of the property. Improvement of the aesthetics of the site would be good and would help to keep the soil and dirt from the roadway. Neighbors would be pleased if these items could be mitigated. Suggest some relief would be helpful while the site plan is generated.

Bill Denzler, Township Planner spoke to the initial meeting with the applicant where a principal building was discussed. Mr. Denzler spoke to having several meetings with the applicant and as well as meeting with the applicant’s engineer. During these meetings the applicant was told he would need site plan approval. The applicant confirmed that this was accurate. As Zoning Officer, Mr. Denzler testified to receiving noise complaints and having imposed a stop work order in November of 2009. The three items cited were outdoor storage with no principal building, site plan approval and no business certificate of occupancy not taken for the site. Previous lot merger was never perfected. Adjacent (Downs) lot received site plan approval in 2008. Outdoor storage is a permitted use in the zone but with a principal use. Further stating the Township’s sensitivity towards requiring screening of noise issues.

Ted Einhorn, Esq. referenced the Scarce Resource Order to obtain building permits requiring the need to go to COAH. Seeking relief to continue operating business without having to apply to COAH. Preliminary Site Plan indicates a future structure on the site. Bill Denzler indicated that the three most recent site plan applications had received waivers from COAH in a timely manner. Larry Wiener, Board Attorney agreed to a site plan being required. There was a brief discussion regarding the application and lack of strong evidence to overturn the appeal on the zoning officer’s decision. It was agreed that with a principal structure the application would go before the Planning Board as a permitted use for a perfected site plan within 60 days. To ensure same, the application was carried before the ZBOA to April 7, 2010 without further notice to retain jurisdiction.

Mr. Wiener, Esq. confirmed to Mbr. Murphy that a statute is in place regarding a stay of the appeal while the applicant works with the land use board. The board members agreed that if the applicant returns before the ZBOA that the comments of the professionals be addressed to include cleaning up the site and a full landscape plan.

Motion to Adjourn.

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Denean Probasco, Board Secretary   Date Approved