TOWNSHIP OF DENVILLE
BOARD OF ADJUSTMENT
MINUTES

May 19, 2010

The Board of Adjustment of the Township of Denville held its regular scheduled meeting on Wednesday, May 19, 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, Sean Ryan, Sally Dankos, Frank Passucci, John Murphy
Absent: Roger Spiess
Prof. Present: Larry I. Wiener, Esq., Nicholas Rosania, PE, William Denzler, PP

MINUTES:
May 5, 2010
Motion to adopt the minutes as submitted was made by Mbr. Korn, seconded by Mbr. Scollans and unanimously approved by all Members present and able to vote.

PURCHASING:
Motion to pay voucher(s) submitted by William Denzler & Associates, dated May 4, 2010 subject to the availability of funds, was made by Mbr. Murphy, seconded by Mbr. Scollans and unanimously approved by all Members present.

RESOLUTIONS:

BA 10-06 Debora Rothwell & William Martutartus
Block 40908, Lot 353
39 East Shore Road
Motion to adopt the memorializing resolution as submitted for the above property was made by Mbr. Korn and seconded by Mbr. Scollans and unanimously approved by all Members present and able to vote.
Roll Call: Ayes – Korn, Scollans, Wilson, Murphy, Passucci, Rodimer

BA 10-07 Rosemary & John Troccoli
Block 40901, Lot 1698
133 East Shore Road
Motion to adopt the memorializing resolution as submitted for the above property was made by Mbr. Korn and seconded by Mbr. Scollans and unanimously approved by all Members present and able to vote.
Roll Call: Ayes – Korn, Scollans, Wilson, Murphy, Passucci, Rodimer

BA 10-08 William & Mary Covert
Block 60603, Lot 34
77 Lake Road
Motion to adopt the memorializing resolution as submitted for the above property was made by Mbr. Korn and seconded by Mbr. Scollans and unanimously approved by all Members present and able to vote.
Roll Call: Ayes – Korn, Scollans, Wilson, Murphy, Passucci, Rodimer

BA/PSP/FSPV 10-02 Rockaway River Country Club
Block 50002, Lot 4 & 50003, Lot 1
39 Pocono Road
Motion to adopt the memorializing resolution as submitted for the above property was made by Mbr. Korn and seconded by Mbr. Scollans and unanimously approved by all Members present and able to vote.
Roll Call: Ayes – Korn, Scollans, Wilson, Murphy, Passucci, Rodimer
PUBLIC HEARINGS:  

BA 06-15: Briar Rose Group, Inc.  
Block 40815, Lot 1700.02  
101 Highland Trail  

Chr. Rodimer announced that this application was a remand from the court. The application was denied by the board to construct a new dwelling with steep slopes and “C” variance relief for disturbance of regulated steep slopes, maximum retaining wall height and front yard setback.

Larry Wiener, Board Attorney reminded the board members that they had been provided with a copy of the February 8, 2010 remand decision of Judge Bozenelis.

Allen Huntman, Esq. stated that the remand is for a meaningful reduction on the size or height of the proposed structure which will result in the meaningful reduction of the deviation of the Township’s steep slope ordinance.

The applicant’s engineer will present an evidentiary exhibit to show a reduction in the house size to see the effect on the steep slopes application. The exhibit will be using previously submitted site plan and architectural drawings to show reductions in the house size resulting in corresponding reductions in steep slopes. Taking 5’ off the side of the dwelling with the corresponding reduction and/or 5’ off the back of the dwelling and corresponding reduction.

Board members voiced concern for not having hardcopies of plans to review beforehand. Prior copies from last year have since been discarded. Mr. Huntman explained that the amended grading plan was dated April 1, 2009 with architectural and site plan drawings dated December 16, 2008. Mr. Wiener clarified for the board that the applicant determines how they will present their case and they are giving the conclusion that what was previously presented is about as a well as can be done in terms of the variance. The testimony will presumably support the conclusion. Mr. Huntman agreed that this is the applicant’s position and that should the board require plans to deliberate, they will be provided to the board by the applicant.

Alfred Stewart of Stewart Engineering (25 Pine Street, Suite 3, Rockaway) was present and remained under oath. Mr. Stewart spoke to presenting two different concept plan exhibits presenting a 200 sq. ft. reduction (per level) of the dwelling, one on the side of the home, the other on the rear of the home.

Using a drawing of A-1 dated January 27, 2009 of Louis Barbieri showing the home with a length of 40’ before the 20’ garage. Both concepts are without the garage and based upon living area only.

- **Concept Plan Exhibit A-1**
  - 200 sq. ft. off the side (shaded in yellow) per level
  - 34’ depth remains unchanged
  - 34.1’ width with 20’ garage for a total of 54.1’ on a 100’ lot
  - 4.9% reduction with 1.7% total reduction of lot area (shaded in pink) 400 sq. ft.

- **Concept Plan Exhibit A-2**
  - 200 sq. ft. off the rear (shaded in yellow) per level
  - 34’ depth reduced to 29’ depth
  - 40’ width remains unchanged with 20’ garage
  - 5.1% reduction with 1.7% total reduction of lot area (shaded in pink) 420 sq. ft.

Mr. Stewart testified to a reasonable disturbance and more aesthetically pleasing plan comparatively to the original submissions and the best for the property.

Chr. Rodimer opened to the professionals for questions.

Nick Rosania, Township Engineer inquired about the 200 sq. ft. number as it relates to a reasonable sized home on this lot in this neighborhood. Stating that the approach should have been to start with the smallest footprint and the home is essentially a 2,000 sq. ft. footprint.

The topic of three stories of living area was discussed as it relates to the walk-out basement. Mr. Huntman disagreed that a home of three levels should be considered three stories of living area, stating that the basement is not living area. Stating that the ordinance does not calculate garage or unfinished basement as living space. Bill Denzler, Township Planner indicated that the basement is not considered for floor calculations but is still considered living area.

Mr. Stewart testified to the following reductions on a 3,080 sq. ft. dwelling without the garage:

- **Upper floor living area**: 1,566 sq. ft.  
- **Second floor living area**: 1,520 sq. ft.  
- **Basement area**: 34’ x 40’  
- **Two car garage**: Independent on the upper level  
- **Small tail behind the garage**: 10’ x 20’ included in the computation.  
  Tail is on all three levels.
Board suggestions included 200 sq. ft. on both the side and the rear of the home for approximately 10% reduction in size. Additional suggestions to make the home less imposing included changing the roof pitch, basement floor height and cantilevering a floor for further reduction of at least 3'.

The public hearing resumed after a short break.

Allen Hantman, Esq. stated the applicant is willing to make certain accommodations in an attempt to gain an approval. The changes include cantilevering the house, put the roof at 12/5, move the wall up 5', narrowing the base, raising the internal basement floor 1.5’ putting the basement at 9-9.5’ instead of 11’. The home will be lowered by 2.5’ and the area of disturbance will be reduced by 400 sq. ft. minimum.

Nick Rosania, P.E. indicated that it was a good start and an improvement over the last plan.

Bill Denzler, P.P. indicated that the majority of his questions had been asked and answered. The biggest concern was the magic number of 200 sq. ft. which has already been discussed at length.

Chr. Rodimer added that a decision would not be made until drawings were submitted for review. Larry Wiener, Esq. indicated that the public still needed the opportunity to speak.

Mbr. Wilson requested a repeat of the summary. Mr. Hantman responded that a reduction of rear of the home (A-2) and by moving the rear wall 5’ for a reduction of 200/400 sq. ft. on disturbed area. 1.5’ reduction of the interior basement height. Roof pitch reduction from 12 on 7 to 12 on 5 reducing the roof 2.5’. Total reduction in height on the home of 4’.

Mbr. Ryan had no questions

Mbr. Korn wanted to know when you are standing on the street if the home is one or one and one half stories. Mr. Stewart replied one story and referred to the Front Elevation drawing dated January 27, 2009. Mbr. Korn inquired about the dormers and interior ceiling height. Mr. Stewart responded that the dormers were for aesthetic purposes, that they may not be possible with the reduced roof pitch and an architect will need to verify. There will be pull-down stairs to the attic.

Mr. Stewart referenced the study of older homes in the neighborhood. Mr. Hantman responded to this indicating that this home was compared with newer homes. There was a discussion regarding whether this information is relative to the current case. Mr. Hantman stated that the proposed dwelling would be smaller than the newer homes and larger than the older homes in the neighborhood.

Mbr. Murphy declined comments at this time stating that plans are required. What has been presented tonight has not fulfilled the remand. Mbr. Murphy stated that he believes a home can be built on this property and requested the applicant come back with proposed plans instead of negotiating. This will eliminate designing from the dais.

Mbr. Passucci referenced the possible elimination of the dormers. Stating that similar to basements, attic space can also become livable area.

Mbr. Dankos agreed with the other board members that a set of plans is necessary. Mbr. Scollans stated to the board that 5 on 12 would not give a living area upstairs but that 7 on 12 would. Mbr. Scollans received confirmation from the applicant that the entire back of the home would be cantilevered. Voiced largest concern for neighbors behind and that the height of the home needs to be mitigated. From Mbr. Scollans standpoint topography improvements need to be made in order for him to support the proposed application.

The hearing was opened to the public for questions.

James Prior, Esq. representing Laurie Toth (11 Chestnut Hill Drive) was present. Mr. Prior asked Mr. Stewart if the per floor reduction was based on any engineering criteria. Mr. Stewart replied that he had been asked to reduce the size by 200 sq. ft. per floor. Mr. Prior then asked if the applicant was agreeing to cantilever the home. Mr. Stewart confirmed that the basement would be cantilevered along the rear of the dwelling. There was additional questioning regarding the size of the home and others in the neighborhood.

Mr. Gerry Idec (1 East Long View Trail) was present. Mr. Idec inquired if making the basement a 5’ crawl space along with mechanicals and lowering the home by a significance of over 5’ was plausible. Mr. Stewart testified that this would not make sense for the several reasons including that the 5’ below the crawl space would be required to make up grade. Removal of windows and doors could be done but would be less aesthetically pleasing. The front yard setback will remain the same. The home is not moving, only the rear wall.

Mr. Stephen Toth (11 Chestnut Hill Run) spoke to the significance on the reduction on the home and a 10% of living area. Mbr. Wilson added that the significance of reduction originally referred to steep slopes and not that of the home. Mr. Stewart confirmed that the proposed reductions as stated by Mr. Hantman and confirmed that the disturbance area would be reduced. Mr. Toth referenced other homes in the neighborhood having detached garages and inquired if a detached garage would decrease the disturbance. Mr. Stewart stated that the disturbance would be greater. Mr. Toth suggested moving the garage into the driveway area in front of the home. Mr. Denzler indicated that variance relief would then be required.
Mr. Rosania spoke to reduction of footprint size (including the garage) not just house size. Mr. Hantman responded that taking 400 sq. ft. off a 1,200 sq. ft. floor is a 30% reduction and not the applicant’s intention. Mr. Rosania stated that the area of disturbance includes the garage and that 400 sq. ft. off of 2,000 sq. ft. floor is a significant reduction and more in line with the Judge’s remand.

The Board Attorney indicated that it is up to the applicant how they will proceed with the next hearing. Whether they will proceed with the original plan or revised the submission based upon the comments of the public and the board members.

Mbr. Wilson sought clarification on moving the rear wall 5’. Mr. Stewart clarified that it is 400 sq. ft. reduction in disturbance with a 200 sq. ft. reduction in the size of the house for a 1.7% of the total lot area, 5.1% of the disturbed area. Suggested that steep slopes in the front of the property be mitigated by addressing the side and back of the home. Mbr. Wilson pointed out disturbing less on the forward part of the property is more of an advantage than disturbing less on the rear. Mr. Stewart confirmed that the steeper the slope the less disturbance is preferred but indicated that the side has less of the steeper slopes category.

Chr. Rodimer announced that the next meeting date would be August 4, 2010. Mr. Hantman confirmed that the applicant would return with revised plans using A-2 and the concessions discussed during this hearing. Concessions included rear cantilever of 3’, rear wall move of 5’, basement height of approximately 9’, roof at 12 on 5 and drawings to reflect elevations and grade on all four sides. Mr. Hantman further agreed to provide any extensions of time should they be required.

The public hearing was carried to the August 4th date without further notice.

Motion to Adjourn.

Denean Probasco, Board Secretary Date Approved