TOWNSHIP OF DENVILLE  
BOARD OF ADJUSTMENT  
MINUTES  

November 3, 2010  

The Board of Adjustment of the Township of Denville held its regular scheduled meeting on Wednesday, November 3, 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, Roger Spiess, Arthur Korn, Sean Ryan, Sally Dankos, John Murphy  
          Absent: Mark Wilson, Frank Passucci  
          Prof. Present: Larry I. Wiener, Esq., Nicholas Rosania, PE, William Denzler, PP

CORRESPONDENCE  
Chr. Rodimer referenced correspondence on the Briar Rose application. The first was from the Tax Assessor and the second was a letter from an architect regarding 2.5 stories.

PROFESSIONAL COMMENTS:  
Nick Rosania, Township Engineer had no comments.  
William Denzler, Township Planner had no comments.

RESOLUTIONS:  

BA 10-33  
John J. Lyons  
29 Zeek Road  
Block 11101, Lot 12  
Motion to adopt the memorializing resolution as submitted for the above property was made by Mbr. Scollans, seconded by Mbr. Dankos and unanimously approved by all Members present and able to vote.
Roll Call: Ayes – Scollans, Dankos, Spiess, Korn, Ryan, Rodimer

BA 10-34  
Eleanor May  
18 Ridgewood Parkway  
Block 50904, Lot 10  
Motion to adopt the memorializing resolution as submitted for the above property was made by Mbr. Scollans, seconded by Mbr. Dankos and unanimously approved by all Members present and able to vote.
Roll Call: Ayes – Scollans, Dankos, Spiess, Korn, Ryan, Rodimer

BA 10-35  
Frank Mariconda & Dave Pavlisko  
29 East Shore Road  
Block 40908, Lot 348  
Motion to adopt the memorializing resolution as submitted for the above property was made by Mbr. Scollans, seconded by Mbr. Dankos and unanimously approved by all Members present and able to vote.
Roll Call: Ayes – Scollans, Dankos, Spiess, Korn, Ryan, Rodimer

BA 10-32  
Richard & Nancy Weber  
27 Bald Nob Road  
Block 61001, Lot 1  
Motion to adopt the memorializing resolution as submitted for the above property was made by Mbr. Scollans, seconded by Mbr. Dankos and unanimously approved by all Members present and able to vote.
Roll Call: Ayes – Scollans, Dankos, Spiess, Korn, Ryan, Rodimer

PUBLIC HEARINGS:  

BA 10-36  
Daniel J. Nappi  
8 Brookview Road  
Block 61501, Lot 21  
Daniel J. Nappi, (8 Brookview Road) was present and sworn in. Mr. Nappi proposed to construct a deck requiring “C” variance relief for rear yard setback. Proposed deck would be in line with the
existing slider doors off the back of the home and would be built with a proposed pool and future Jacuzzi tub.

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

Nick Rosania, Township Engineer indicated that there were no engineering concerns.

Bill Denzler, Township Planner commented on the hardship due to the shape of the lot and inquired about the proximity of the deck in relation to the residence.

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

Leszel Wojciechowski (151 West Glen Road) a neighbor, stated he has no objection to the size of the deck but did object to the height. Indicated that the deck will be 5’ above his fence and requested the applicant construct the deck 3’ lower to reduce the encroachment onto his privacy. Entered a Photo O-1 and O-2 providing a viewpoint from his home and the deck. His dwelling is 20’ from the property line shared with the applicant.

Chr. Rodimer opened to the board members.

Mbr. Spiess commented on Mr. Wojciechowski’s concerns and felt that privacy walls and shrubbery plantings would help mitigate. Mbr. Spiess had no questions.

Mbr. Ryan agreed on the privacy and arborvitae.

Mbr. Korn agreed with fellow board members and commented that a fence would be sufficient.

Mbr. Murphy received confirmation that the tub was proposed to be on the 8’ section of the deck closest to the neighbor.

Mbr. Dankos empathized with the neighbor but agreed with the applicant’s desire to have the deck at the same height as the sliding doors. Believed it could be worked out as a compromise agreeable to all.

Mbr. Scollans had no problem with the deck but understood the neighbors concern. Asking the applicant to take the neighbor and possible alternatives into consideration while meeting his own needs.

Chr. Rodimer asked Mr. Wojciechowski for his comments on the applicant’s willingness to put a privacy fence on the deck along with planting arborvitae. Mr. Wojciechowski inquired about the size of the trees. The applicant responded that he could plant 10’ trees. Mr. Wojciechowski offered to assist with the offset of the applicant’s costs of the trees if lowering the deck was not an option.

Elzbieta Wojciechowski (151 West Glen Road) wanted to provide her point of view. Spoke to being caged by the fences and spoke to the privacy walls and trees.

Mbr. Spiess commented to the neighbor that the applicant could proceed without board approval by simply reducing the deck slightly. The Township Planner added that a hardship exists due to the irregular shaped lot and that the position of the dwelling on the property dictates the location of the deck in the rear yard.

Chr. Rodimer asked for other members of the public and seeing none, closed the public portion of the meeting.

Chr. Rodimer opened the application to the board members.

Mbr. Spiess stood by his original comments and to the existing conditions. Empathized with the neighbor but voiced being in favor of the application. Lowering the deck does not make good sense and the privacy fence and trees are a good plan.

Mbr. Ryan agreed with Mbr. Spiess.

Mbr. Korn empathized with the neighbor, agreed with the applicant and supported the application as is without conditions.

Mbr. Murphy inquired about the slope of the property beyond the pool. Mr. Nappi responded 2 on 12. Voiced empathy towards the neighbor but understood the applicant’s right to develop his property.

Mbr. Dankos had no further comments.

Mbr. Scollans inquired about moving the sliders. The applicant responded that moving the sliders is not an option. Mbr. Scollans felt that accommodating the neighbors was important. Stressing that conditions would be necessary in order to support the application.

Chr. Rodimer commented that the neighbor was aware of the topography when they purchased their home and based upon the applicant’s willingness to accommodate that he was in favor of the application.

Mbr. Spiess made a motion to approve the application with the privacy wall on top of deck where the future hot tub would be located and 10’ arborvitae plantings. The location of the trees to be determined by professionals during field inspection and the applicant to notify Bill Denzler for approval.

A motion to approve this application as amended was made by Mbr. Spiess, seconded by Mbr. Ryan and approved by the majority of members eligible to vote.

Roll Call:
Ayes – Spiess, Ryan, Korn, Scollans, Dankos, Rodimer
Nays - Murphy
John C. Diaz (87 West Shore Road) was present and sworn in. A recent addition has required a redesign of their deck. Applicant proposes to construct a deck connected to their dwelling on one side and to their detached garage on the other. Deck will be expanded 3' towards the road and requires “C” variance relief for frontage on two roads. Mr. Weiner commented on the applicant having three front yards.

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

Nick Rosania, Township Engineer confirmed that the home is encumbered by three front yards and no engineering issues as proposed. Bill Denzler, Township Planner two-fold setback issue. Setback of 50’ to White Birch where 25’ is required. Secondly, where the deck is connecting to the garage the 9.2’ front yard setback comes into play by connecting the existing detached garage to the principal structure. Stating the existing condition is not being worsened. The extremely narrow lot and frontage on three streets is a hardship. Proposed addition does not create the front setback issue.

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

Chr. Rodimer opened the public hearing to the board members.

Mbr. Murphy spoke to the music room. Bill Denzler indicated that the accessory structure ordinance applies. Mbr. Dankos had no problems with the application. Mbr. Scollans, Spiess and Ryan had no problems with the application. Mbr. Korn inquired about the exact dimensions of the deck. Mr. Diaz responded that the “L” shaped deck would be 24’ long off the music room and patio and another 21’ off the dwelling.

Chr. Rodimer stated that the FAR does not apply to residential, that the limitation is for impervious coverage on the accessory. Stating that he would have had a problem with the application if it was new construction.

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

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

Frank Caprio (5 King Hill Court) was present and sworn in. The applicant proposed to construct an attached garage with storage loft on the north side of the property. Proposed addition requires “C” variance relief for side yard setback. Mr. Caprio stated that the south side of the property is not well suited for the addition due to a natural swale and three ponds created by overflows, drainage and runoff. Stated the proposed addition would be aesthetically in conformance with the existing home and would provide a utility room and storage.

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

Nick Rosania, Township Engineer stated that the property is a large lot unusually shaped with a house behind a house layout. The large lot is encumbered by some topographic variations such as wetlands and pond areas. The Township Engineer stated that there were no engineering concerns but perhaps some zoning issues based upon the setbacks. Larry Weiner, Esq. inquired about the setback lines on the survey. Mr. Caprio stated that the lines were from the original subdivision. The Board Attorney advised the applicant that if there was some type of covenant that runs with the land that was in violation, that he would be proceeding at his own risk. The Township Engineer stated that no reference to other easements or public ROW’s were evident on the survey. The applicant confirmed that there are two sheds on the corner of the property, one of which is on the neighbor’s property. Larry Weiner, Esq. suggested that the applicant perform due diligence on the property as it relates to title work and setback lines before starting construction.

Bill Denzler, Township Planner inquired about the second floor on the garage and the height. Mr. Caprio indicated that the second floor is for storage and that the 20’ peak would be to the lower ridgeline. Mr. Denzler inquired about the approximate distance to the home to the north. Mr. Caprio stated that the aerial photograph is from Google maps with the letter ‘A’ indicates the proposed location for the addition. Chr. Rodimer inquired about the waterways and Mr. Weiner indicated any improvements would be subject to any required approvals such as NJDEP. Mr. Rosania confirmed.

Chr. Rodimer opened the hearing to the public.

Michael Knaack (King Hill Court) was present and sworn in. Stated that the side of the applicant’s property is in the rear of the Knaack’s property. View from the kitchen window.
Proposed garage will be in the more visible portion of the yard where they spend most of their time. Mr. Knaack stated that there are other options and alternatives for the applicant to consider, including a detached garage on a property exceeding 1 acre. Voiced concern for drainage issues created by water runoff from the garage and possible paving of the future driveway.

Chr. Rodimer opened the public hearing to the professionals.

Nick Rosania, Township Engineer responded to the drainage concerns of Mr. Knaack stating that he has no personal knowledge of the drainage on this property. Mr. Caprio responded that the driveway would benefit by having a trench of crushed stone.

Chr. Rodimer inquired about windows on the north side of the garage and evergreen trees. Mr. Caprio stated no window is planned and that five evergreen trees exist today.

The Board Attorney inquired if there was a garage on the home and inquired about the driveway. Mr. Caprio stated no garage exists but did at one time. The garage had been converted to a room in 1986 and was located on the other side of the home.

Mr. Knaack stated that the present distance to the property line from his home is 100’ and 27’ setback versus the proposed 100’ and 4’ setback.

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

Chr. Rodimer opened to the board members.

Mbr. Spiess spoke to being unable to support this application with an addition of this size only 4’ off the property line. Stated that there has to be alternatives.

Mbr. Ryan agreed with Mbr. Spiess that he was not in favor of the application and that other solutions exist.

Mbr. Korn agreed that the hardship was not proven that alternatives exist.

Mbr. Murphy agreed that a 4’ setback was excessive. Stating that the original garage was located on the right by the builder for a reason and suggested something is done on that side of the home. Proposed would be too harsh for the neighborhood.

Mbr. Dankos agreed with Mbr. Murphy.

Mbr. Scollans agreed many options exist and there was no hardship. Mr. Caprio inquired what his options were. Mbr. Scollans stated that an architect would be able to provide several options.

Chr. Rodimer spoke to the setback and the proximity to the property line. Commented that 4’ would not be sufficient to maintain the garage and that their ladder might be on the neighbor’s property and could become a liability to the neighbor. The hardship was self-created when the applicant removed their original garage. Mr. Caprio inquired what an acceptable setback would be. Chr. Rodimer indicated that the board was deciding on what was currently proposed. Chr. Rodimer suggested that the applicant come back using the board’s comments. Larry Weiner, Esq. agreed that it was not the board’s responsibility to make an applicant’s case for them.

A motion to carry this application was made by Mbr. Rodimer, seconded by Mbr. Spiess but not approved by the majority of members eligible to vote.

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

A motion to deny this application was made by Mbr. Murphy, seconded by Mbr. Ryan and unanimously approved by the majority of the members eligible to vote.

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

BA/SPC 09-18: W&L Associates, LLC
423 Main Street
Block 41307, Lots 2 & 8
Applicant is proposing to preliminary/final site plan approval with use and bulk variance relief to expand an existing non-conforming retail structure. Carried without further notice to December 1, 2010.

Motion to Adjourn.